Managing Public Lands Under the Trump Administration and Beyond

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Introduction

Since early 2017, political leadership at the Department of Interior ("DOI" or "Interior") has diminished the agency's capacity to carry out its environmental responsibilities and has instead implemented the Trump administration's "energy dominance" program.[1] Interior has rolled back regulations designed to protect endangered and threatened species as well as grazing and land use reforms.[2] The administration has offered unprecedented areas of public lands for oil and gas development[3] while attempting to shrink and weaken protections for national monuments.[4] These actions undermine Interior's conservation mission, impair its ability to address climate change, and subject our public lands to uses that aren't sustainable. They also significantly impact local communities, including Indigenous communities who have spiritual and cultural connections to the lands.

The Trump administration has diminished Interior's ability to manage public lands[5] and make decisions according to science, the guidance of career employees, and input from stakeholders. They've accomplished this by undermining four often-overlapping components:

1. Institutional capacity;
2. Science-informed decision making;
3. Public accountability and engagement; and
4. Nation-to-nation relationships with tribal nations[6].

Sustainable management of the 480 million acres of public lands the Department of the Interior oversees for us requires investing in all of these components. DOI and its many state and local offices need qualified leadership and structures in place to effectively manage the varied uses of these areas. Interior must be transparent in its actions, seek out external expert input, and address the public's concerns in meaningful ways. To carry out DOI's conservation and use missions, decision making should be rooted in science. Interior must honor tribal sovereignty and meaningfully engage with tribes.

If President Trump is reelected, we expect to see continued political interference in public lands management. A second-term administration would likely further politicize science and minimize public input in order to increase extractive uses of public lands, and would probably not work with tribal governments to improve consultation, collaboration, and observance of tribal sovereignty. If a Biden administration takes office, DOI will need to reverse some of the Trump administration's management decisions in order to back away from the energy dominance agenda and restore Interior's capacities. This will include prioritizing conservation and science-based decision making, accelerating clean energy projects, and restoring the US's relationship with tribal nations.[7]

In this report we analyze what's happened during the Trump administration and offer a suggested path forward for a Biden administration. For each component listed above, we describe how land management has changed, how a second-term Trump administration likely would build on these efforts, and we make recommendations for restoring Interior's capacity and approach to carrying out its public lands mission if a Biden administration takes office.

We start by discussing changes at Interior headquarters that have affected all public lands managers. We then divide the report by bureau, as each office has distinct statutory authority and obligations for the lands it manages. While many offices within Interior deal with public lands, we focus on the three that manage the vast majority of land: the Bureau of Land Management (BLM), the Fish and Wildlife Service (FWS), and the National Park Service (NPS). We don't address offshore activities managed by the Department of Interior.

This report is based on our own research as well as 25 interviews with former DOI career staff, former political appointees, and natural resources and American Indian law experts. The recommendations to an incoming administration aren't intended to supplant advice from career staff or Indigenous communities.

Department of the Interior Highlights

Mission: "Conserves and manages the Nation's natural resources and cultural heritage for the benefit and enjoyment of the American people, provides scientific and other information about natural resources and natural hazards to address societal challenges and create opportunities for the American people, and honors the Nation's trust responsibilities or special commitments to American Indians, Alaska Natives, and affiliated island communities to help them prosper."

Institutional Capacity

Trump Admin. Actions to Date:

- Reorganized DOI and centralized decision making among political leadership
- Left important positions vacant and reassigned senior career staff
- Involved political staff – often in acting capacities – in more decisions

Biden Admin. Recommendations:

- Establish new clearing processes for decisions that involve the secretary only when needed
- Fill science and other critical position vacancies
- Ask career staff what resources they need and listen to their input
- Reverse reorganizations

Science-Informed Decision Making

Trump Admin. Actions to Date:

- Politicized science and intimidated scientists
- Ignored climate change and minimizes role of science in decision making

Biden Admin. Recommendations:

- Convene DOI scientists and managers to assess urgent priorities
- Elevate role of science through independent science advisors or other mechanisms
- Reform and recommit to scientific integrity policy and add accountability measures

Public Accountability and Engagement

Trump Admin. Actions to Date:

- Minimized public input through NEPA regulations and categorical exclusions
- Revised FOIA regulations and increased political awareness review
- Flouted ethics rules

Biden Admin. Recommendations:

- Reform NEPA implementation to ensure meaningful public input
- Hire more FOIA officers to cut backlog; return political review to awareness only
- Enforce ethical standards and disclosure requirements

Nation-to-Nation Relationship With Tribal Nations

Trump Admin. Actions to Date:

- Hasn't affirmed government-to-government relationship and ended annual Tribal Leaders Summit
- Engaged in minimal consultation with tribal nations
- Lack of action on cooperative management of public lands

Biden Admin. Recommendations:

- Work with White House to reaffirm government-to-government relationship
- Strengthen White House Council on Native American Affairs
- Require meaningful consultation and direct offices to seek cooperative or co-management opportunities

Department of the Interior-Wide Changes

The Department of Interior is a multifaceted agency with enormous obligations. Its mission includes conserving and managing natural resources and cultural heritage, providing scientific information to the public, and carrying out the government's commitment to American Indians, Alaska Natives, and island territories.[8] Within the Department, there are nine bureaus serving a range of specific purposes. Public land management is only one part of the story, but it's a critical part of Interior's mission.

Institutional Capacity

Interior-managed public lands range from active mining sites to popular national parks, wildlife refuges, and undeveloped backcountry. A handful of bureaus within DOI manage these lands for differing purposes, and many of their staff work in regional, state, and local offices across the US DOI leadership historically has delegated decision-making authority to field offices, because one-size-fits-all answers to public lands management are rare.

Trump Administration Actions

The Trump administration has reduced Interior's overall institutional capacity by centralizing decision making to a limited number of political appointees and diminishing the role of career staff. It has managed DOI in a top-down manner by establishing review processes that afford top political appointees final decision-making authority on a large swath of Department actions. For example, in April 2018, then-Deputy Secretary Bernhardt issued an order inserting his office, as well as the Solicitor's office, into the internal review of National Environmental Policy Act (NEPA) environmental impact statements.[9]

Like many actions during the Trump administration, this order allegedly continued the Department's "streamlining" efforts, but, in reality, it added an unnecessary step to the process. The NEPA procedures aren't unique; centralized decision making has impacted all three bureaus and often comes at the expense of public accountability and science. As noted below, Interior political appointees are playing an outsized role in reviewing documents to be made public in response to Freedom of Information Act requests.[10] They've also intervened in the publication of scientific findings and grant-making decisions.[11] This additional layer of approval decreases trust and accountability within the Department, creates significant bottlenecks, and often results in politicized changes to documents or plans that are intended to be based on expert analysis.[12]

The Trump administration's management tactics at Interior have caused a loss of institutional knowledge and low staff morale. At the beginning of the administration, Secretary Zinke promised to cut at least 4,000 Department employees,[13] and our interviewees agreed that the Department remains understaffed. Zinke also reassigned 27 senior career staff to positions unsuited for their skillset in a politically motivated and potentially unlawful move.[14] By leaving important leadership positions vacant or filling open positions with non-Senate-confirmed political appointees, the secretary is exercising unprecedented authority over the individual bureaus, which we discuss in the bureau-specific sections. Interviewees also stated that political appointees entered office uninterested in career staff's opinions or perspectives.

Trump Second Term Trajectory

The Trump administration has hamstrung DOI and is likely to keep damaging DOI's capacity if elected to a second term. Because positions remain vacant and decision making is centralized in the secretary's office, decisions have languished and inaction has become more common in some policy areas. Interviewees projected that if President Trump is re-elected, many more career staff would leave DOI, resulting in political appointees operating with less accountability and more latitude to pursue political objectives.

Recommendations for a Biden Administration

A Biden administration will need to focus first on reintegrating and valuing the work of career staff, increasing staffing levels, filling positions with qualified people, and rebuilding trust, morale, and expertise. As one interviewee noted, the competing purposes of Interior's bureaus means that Interior must value planning, consideration, and diverse input when making decisions. The incoming secretary and other political appointees should invite meaningful input from career staff, including identifying what internal reforms are needed.

Another interviewee emphasized that the next administration could also reform the Executive Resources Board (ERB), which assists in managing many of the Department's senior employees and was responsible for the reassignments of senior career officials at the beginning of the Trump administration.[15] The ERB Secretary Zinke convened had six political appointees as voting members and one non-voting career advisor.[16] The ERB actions have been the subject of investigations by the Inspector General and congressional oversight. While some adjustments have been made, the ERB's membership majority is still political appointees. DOI officials could consider permanently requiring that the ERB's membership be balanced between career employees and political appointees as well as institutionalizing greater representation of the various bureaus.

The political leadership will need to establish well-defined review and clearance processes that appropriately delegate decision-making authority. Any secretarial orders that are issued, whether related to internal structures or directions from executive orders, should include accountability mechanisms to ensure they're followed. Changes that were made through secretarial orders and incorporated in the Departmental Manual[17] during the Trump administration will be more difficult to undo than changes initiated through guidance documents. The Biden administration should review the Departmental Manual agency by agency to understand what's happened and develop a plan to finalize needed changes.

Science-Informed Decision Making

DOI officials must make land-management decisions fully informed by the best available science to ensure healthy ecosystems and sustainable use for current and future generations. The United States Geological Service (USGS) is the leading scientific agency within DOI, although they don't manage public lands. In this report we focus on how research from the USGS and others informs policy and decision making within Interior's public lands bureaus.

Trump Administration Actions

The Trump administration's attacks on science have been continuous and widespread, resulting in reduced capacity and credibility.[18] As most interviewees noted, science isn't playing an adequate role in decision making. Since the initial months of the administration, political appointees have interfered in DOI scientists' projects and communication. Career experts have been routinely sidelined, and some scientists report low morale.[19] In December 2017, the deputy secretary issued a Secretarial Order that rescinded important science-based climate and conservation programs.[20] The Trump DOI also requires that a political appointee review most proposed grant approvals to ensure they align with the Trump administration's priorities – creating the risk that grants will not be judged solely on the basis of their scientific merits.[21]

In addition, DOI is taking steps to limit the science it uses in decision making. In 2018, then-Deputy Secretary Bernhardt signed Secretarial Order 3369,[22] *Promoting Open Science*.[23] Rather than deferring to Interior's scientists to determine what qualifies as the best available science, Order 3369 directs them to "utilize and prioritize" publicly available science.[24] The order also includes a provision authorizing the deputy secretary, a political appointee, to waive this public availability requirement. Both provisions reduce scientific integrity by politicizing scientific decision making.[25] And as a letter to Secretary Zinke from members of

Congress points out, "requiring all scientific data to be public in order to be used for decision making could have dire consequences for sacred Native American spaces, archaeological sites, and endangered species."[26]

Trump Second Term Trajectory

A second-term for the Trump administration would allow the current political leadership to continue to stall climate change research and limit the role of science in decision making by, for example, finalizing the "open science" regulations. It's also likely that career scientists would continue to leave DOI in the second term. These actions would have significant impacts on DOI's ability to fulfill its conservation and multiple-use mandates, which are grounded in interdisciplinary science. But decisions by the courts could force Interior to change its current trajectory. For example, a district court recently invalidated the Trump administration's rescission of regulations regarding methane waste on federal and Indian lands, partially because the administration didn't adequately consider scientific findings.[27]

Recommendations for a Biden Administration

A Biden administration would need to reinvest in career scientists and reinstate the role of objective science in departmental decision making. Senior officials need to bring together scientists from across DOI to better understand what's happened, communicate political leadership's commitment to objective science, and detail how the Biden administration will incorporate scientific research in its actions. Directives that allowed for political interference in science, including the open science secretarial order and the changes to grant approvals, should be revoked.

The secretary should also take steps towards improving Interior's scientific capacity. Two interviewees suggested enhancing the role of the science advisor. A Biden DOI could request funding to ensure all of the directors of the land management bureaus have their own independent science advisor unassociated with internal scientific programs. As noted by one interviewee, this will help ensure their advice is not biased towards any programmatic interests. DOI could also consider investing more heavily in the Office of Policy Analysis or creating science-based advisory committees. One interviewee emphasized the importance of strategic planning, suggesting that the individual bureaus create three-year plans.[28] The plans could identify the biggest challenges facing the bureaus, strategies for overcoming them, and measures to hold the bureaus accountable.[29] Other recommendations from interviewees include increasing partnerships with organizations and universities, ensuring funding for peer review, and reinforcing scientific integrity policies. One interviewee noted that scientific integrity officers could be Intergovernmental Personnel Act appointees to bolster their independence.[30]

Public Accountability and Engagement

Interior's accountability mechanisms are both principles of sound governance and legal requirements. Laws like the National Environmental Policy Act (NEPA),[31] the Administrative Procedures Act (APA),[32] and the Freedom of Information Act (FOIA)[33] require agencies to provide the public with information and help hold agencies accountable. Public oversight requirements in NEPA and the APA compel agencies to be rigorous in their analysis and decision making. Public engagement outside of these legal structures is also instrumental to DOI's mission, especially in relation to visitor experience on public lands.

Trump Administration Actions

The Trump administration has eroded long-standing public engagement processes in order to limit public input and transparency.[34] Interior has worked to shield itself from Congressional oversight while its actions have engendered conflict of interest concerns.

The Trump DOI has evaded public input on environmental reviews and generally complied with laws requiring public participation in form only. In 2017, Secretary Bernhardt issued Secretarial Order 3355

directing bureaus to explore options for new categorical exclusions, limit most environmental reviews to 100 pages, and complete environmental impact statements within a year.[35] Categorical exclusions preclude public input by excluding projects from NEPA review, while the timing and length restrictions limit meaningful public engagement.[36]

The Trump administration has frequently established short comment periods that are insufficient for meaningful engagement,[37] including allowing the public only 15 days to comment on a review of the Bears Ears National Monument.[38] Interviewees highlighted Interior's changes to public hearings, including limiting the number of hearings and holding hearings in inconvenient locations. Given extractive industries' greater ability to respond to short comment periods and private access to Interior officials, these changes tilt the input Interior receives towards them and other well-funded interests.

Additionally, through multiple guidance memos,[39] a Secretarial Order,[40] and a final regulation,[41] Interior updated its FOIA review processes to restrict public access to information, delay FOIA responses, and politicize decisions. These changes are inimical to FOIA's purpose: to promote a transparent government and uphold the public's statutory right to information. Interior pointed to the large increase in FOIA requests to justify its actions, [42] but Department officials added delays to the process and didn't hire more FOIA officers who could help with the increased requests. A 2018 memo, later updated in 2019, codified "political awareness" review – a process where political appointees are made aware of upcoming FOIA productions that include their name.[43] Though giving political appointees a heads up isn't unique to the Trump administration, Interior political appointees used this review to question FOIA staff's decisions, leading to delays in production and fewer pages being made publicly available.[44]

Interior officials have also routinely ignored Congressional oversight requests, resulting in the House Natural Resources Committee threatening them with subpoenas.[45] The administration's resistance to answering Congressional inquiries comes at a time when senior leadership is flouting ethics rules, despite Secretary Bernhardt's added emphasis on reforming DOI's ethics program.[46] As one interviewee stated, previous administrations ensured not only that Department officials obeyed ethics requirements but that there was never an appearance of a conflict of interest, as that would diminish the Department's public credibility. This administration seems indifferent to losing credibility with the general public and has relied on technicalities to avoid complying with ethics requirements beyond the minimum extent required.

Trump Second Term Trajectory

If the Trump administration's goal is to disempower Interior's public lands management offices, reducing public input and Interior's own credibility is an effective strategy. The lack of transparency enables the administration to further its energy dominance agenda by avoiding oppositional comments that could prevent DOI from finalizing its plans. If there's a second term, there's little reason to think these actions will change. Despite the COVID-19 crisis, Interior has continued to hold lease sales and issue regulations, carrying on its strategy of accelerated action at a time when the public has significant barriers to commenting.[47] However, the courts will help determine public accountability in a second term. Interior is facing lawsuits challenging some regulations and lease sales on the basis of procedural flaws, including insufficient opportunities for public input.[48] The outcome of these lawsuits could encourage a second-term Trump administration to abide by the procedural requirements for public input.

Recommendations for a Biden Administration

A Biden administration could begin restoring accountability at Interior by resetting requirements for public input during planning, working to establish strict ethics guidelines, and properly responding to Congressional inquiries. The secretary could issue a statement that transparency is valued and public input is welcomed and will be easier to provide. They could order bureaus to extend any comment periods currently open and routinely hold longer comment periods and more public hearings for complex proposals. A Biden administration could consider larger reforms to public commenting as well. One interviewee emphasized the

need for flexibility in reopening comment periods and a for a comment process that adapts to more complex projects by having multiple rounds of comments focused on specific issues. Another suggested increasing the use of virtual public engagement to make the process more accessible, though an administration would need to ensure that virtual meetings are complements to other methods that will ensure all voices are heard.[49] As mentioned below in the BLM section, Interior could also explore strategies for conducting collaborative, landscape-level planning.

DOI should also work with the administration to repair NEPA processes and ground any changes in NEPA's original purpose of providing information to and involving the public. Reforming FOIA regulations will likely be less of a priority, but the secretary should hire more career staff to clear the backlog and reduce the influence of political appointees in the FOIA process.

Nation-to-Nation Relationship With Tribal Nations

The entire United States was once Native land, and much of our public lands remain important to Indigenous groups, containing sacred and culturally significant sites, and/or bordering lands owned by tribal nations. There are 574 federally-recognized American Indian and Alaska Native tribes. Tribal governments, and individual members, have diverse and sometimes conflicting perspectives on policy matters, including public lands management. We discuss consultation and collaboration at a general level, but recognize there is no one-size-fits-all policy option for tribal inclusion in land use decisions.

The legal requirements for DOI to engage with tribal nations are rooted in the United States' obligations to tribes created by the US Constitution and treaties, which serve as the foundation for the government-to-government relationships and DOI's consultation requirements.[50] Yet the government has limited these requirements by its policies and interpretation of its fiduciary duties to tribes.[51] At a minimum, all agencies, including Interior, must consult with sovereign tribal governments on a nation-to-nation basis before undertaking actions that may affect tribal lands or cultural heritage. Consultation is required under law, most notably in regulations implementing Section 106 of the National Historic Preservation Act (NHPA)[52] and NEPA.[53] DOI's consultation policy provides consultation guidelines, requires annual reports to the secretary to hold bureaus accountable, and includes a provision for developing departmental trainings on consultation and the federal-tribe relationship.[54] The consultation requirements are mostly procedural, however, and the laws don't provide meaningful pathways for tribes to seek enforcement of consultation obligations.[55] DOI's land management offices have general authority to enter into cooperative agreements with outside entities, The Tribal Self Governance Act specifically allows DOI to enter into funding agreements with tribal nations to authorize the tribes to carry out certain functions on public lands. [56] Implementation of the law has been slow, however, and the scope of such management agreements is limited.

Trump Administration Actions

Although the Trump administration has worked with and garnered the support of some tribal governments,[57] our interviewees unanimously agreed that – in general – the Trump administration's relationship with tribal nations has backtracked significantly. Executive Order 13175 reaffirms the federal government's government-to-government relationship with recognized tribes and directs federal agencies to create processes for consultation with tribes.[58] President Trump has departed from precedent by not reaffirming Executive Order 13175 and ended the White House's annual nation-to-nation summits with tribal nations.[59] As interviewees noted, this lack of a foundational recognition of tribal sovereignty and the importance of nation-to-nation relationships undermines consultation and collaborative efforts. Multiple interviewees emphasized the lack of power that Indigenous communities have in the Trump administration and in DOI specifically.

Political leadership at DOI sets the tone for public lands management by the extent to which they prioritize Interior's obligations to Indigenous communities, respect tribal sovereignty, and engage with tribes on a government-to-government basis. Because the status quo doesn't provide tribes with a meaningful role in managing public lands and sacred sites, inaction has significant consequences. Under the Trump

administration, Interior's leadership has failed to lead and to address existing shortcomings. For example, towards the end of the Obama administration, Secretary Sally Jewel issued a directive encouraging more partnerships with tribes.[60] The Trump administration hasn't furthered this effort beyond publishing the legally-required list of opportunities for tribes to enter into funding agreements with DOI.[61] It also hasn't issued lands-related policies aimed at improving Interior's relationships with tribal nations. Interviewees also noted that Interior leadership has allowed individual bureaus to minimize consultation with tribal nations, reducing it to little more than a formalistic exercise. DOI also seems to have stalled working towards co-management agreements. We discuss both in more detail in the bureau-specific sections.

Trump Second Term Trajectory

It remains unlikely Interior will prioritize meaningful engagement with tribal nations in a second term. After three years of inaction, however, the White House recently reinstated the White House Council on Native American Affairs.[62] A second term could allow the Council to play a prominent role, though DOI hasn't indicated that this will happen.[63] Despite changes to its overall approach to tribal engagement, a second-term Trump administration would likely continue to work with tribal governments that are supportive of its policy goals.

Recommendations for a Biden Administration

If Biden wins, the White House will need to take the lead on reaffirming the federal relationship with tribal nations, and commit to recognizing tribal sovereignty. The Interior secretary, in allegiance with other federal government leaders, should commit DOI to work to restore trust and to seek progress beyond the status quo. As a first step, the Biden DOI could work with the White House to re-empower the Council on Native American Affairs, and re-initiate annual meetings between federal leadership, including the President, and tribal leaders.[64] One interviewee noted that these meetings served as accountability mechanisms for cabinet members, because agencies presented on progress made in the previous year. The Biden DOI should also engage in meaningful face-to-face listening sessions with tribes and appoint Indigenous people to leadership positions at Interior.

With over 500 federally recognized tribes, each with their own unique relationship to the US government, Interior won't be able to develop one policy that will work in all instances. Still, leadership can issue policy guidance, develop new training for employees, and encourage the bureaus toward cooperative management and returning lands to tribal nations to manage. Good relationships between DOI employees and tribes are necessary for successful formal agreements. A Biden administration should encourage employees to engage with local tribal governments to begin building those relationships and work to ensure that DOI staff have a better understanding of tribes' capacity and unique fitness to manage natural resources. As one interviewee noted, there are many examples of successful inclusive management with tribes at the state level.[65] DOI could look to the states as examples of what works, lessons learned, and as inspiration for federal land managers.

The incoming administration should consider how agencies can meaningfully comply with consultation requirements and what those requirements really mean. One interviewee recommended that Interior develop a new approach to consultation that better meets tribes' expectations and that the 2017 Government Accountability Office report on consultation could serve as a starting point for this task.[66] A new administration should also ensure Interior follows its current policy and habitually engages with tribes early in the process and at the appropriate level.[67] This may require providing additional resources, whether in the forms of grants or staff support, to the tribal nations that lack the resources to fully engage on all issues. At least two interviewees recommended that Interior re-establish a formal process to engage with tribes at the regional and state level. And some interviewees thought that legislation is necessary to create meaningful consultation and better protect cultural resources.

Bureau of Land Management Highlights

Mission: "To sustain the health, diversity, and productivity of public lands for the use and enjoyment of present and future generations."

Institutional Capacity

Trump Admin. Actions to Date:

- Appointed person with record of opposing public lands as *de facto* acting director
- Moved headquarters to Colorado and transferred staff to regional/state offices
- Required secretary's office approval for many actions
- Prioritized and accelerated oil and gas permitting process

Biden Admin. Recommendations:

- Move headquarters and appropriate staff back to Washington, DC[68]
- Appoint a director committed to multiple-use and sustained-yield mission with training and a background in natural resources management
- Re-prioritize restoration and reclamation responsibilities for staff
- Increase communication and coordination between regions

Science-Informed Decision Making

Trump Admin. Actions to Date:

- Didn't account for climate change impacts in lease sales and planning documents
- Scattered NEPA staff and centralized NEPA decision making

Biden Admin. Recommendations:

- Integrate climate change into NEPA reviews
- Require updated science before proceeding with an environmental assessment

Public Accountability and Engagement

Trump Admin. Actions to Date:

- Diminished multi-stakeholder collaborative approach to land management
- Eliminated reforms for increased public input on land-use planning and lease sales
- Suspended and reformed Resource Advisory Councils (RACs)

Biden Admin. Recommendations:

- Revive collaborative planning when possible
- Find innovative ways to increase public engagement beyond minimum required by law
- Reconstitute and strengthen RACs
- Establish a Climate Crisis Advisory Committee

Nation-to-Nation Relationship With Tribal Nations

Trump Admin. Actions to Date:

- Reduced or avoided consultation with tribal governments
- Shrank Bears Ears National Monument and abolished Bears Ears Inter-Tribal Coalition

Biden Admin. Recommendations:

- Require early and meaningful consultation with tribal governments
- Work with DOI and other agencies to reform consultation
- Undo changes to Bears Ears and seek more collaborative management arrangements for monuments

Bureau of Land Management

The Bureau of Land Management (BLM) administers 245 million acres of public land, or one-tenth of the United States' landmass, and 700 million acres of subsurface minerals.[69] BLM manages those lands and minerals based on the agency's mission – "to sustain the health, diversity, and productivity of public lands for the use and enjoyment of present and future generations."[70] The Federal Land Policy and Management Act of 1976 (FLPMA)[71] directs the agency to balance two mandates: 1) to manage public lands for multiple uses, such as energy development, livestock grazing, mining, timber harvest, and recreation, and for sustained yield; and 2) to protect the quality of resources, including ecological, historical, and cultural resources, within those lands.[72] This dual mandate creates conflict and tension in the lands BLM oversees and significant pendulum swings between administrations' policy priorities. The Trump administration has focused almost exclusively on extractive uses of land, including an unprecedented increase in oil and gas leasing. Its attacks on the bureau's core competencies have enabled this outcome, and the Biden administration will need to restore those capacities if it seeks better balance in achieving BLM's multiple use and conservation missions.

Institutional Capacity

BLM has historically struggled to realize the capacity needed to accomplish its full multiple-use mission.[73] Many of the agency's functions are decentralized to state, district, and field offices where 97% of BLM staff work.[74] While this structure has fostered trust between BLM field staff and the communities where they live, often advancing local conservation and sustained-yield objectives, it does make coordination difficult and in some instances opens those offices to the pressure of local extractive interests seeking to further capitalize on current political leadership's inclination to favor those interests. It also has one of the smallest budgets of any federal land management agency.[75]

Trump Administration Actions

The Trump administration has taken significant steps to weaken BLM's institutional capacity. First, the administration moved BLM headquarters from Washington, DC to Grand Junction, CO, where the agency will share a building with oil and gas companies.[76] Under this plan, most positions moved to Grand Junction, and a number of positions were relocated to other state and regional offices.[77] Of 179 employees who received notice to relocate to Grand Junction, only 90 accepted reassignments.[78] This move demoralized the civil service, eroded significant expertise at BLM, and will make coordination across the agency more difficult.[79] The move hinders agency input on policy, budget, legislation, and coordination with other public land management agencies that have headquarters in DC.[80]

At the same time, the Trump administration centralized decision-making authority in Interior's political offices, even though BLM hasn't had a Senate-confirmed director for the duration of Trump's term. Interviewees noted that decisions normally left to state and field offices, including individual permit and environmental review decisions, are now directly overseen by often-unconfirmed political appointees. And William Perry Pendley, a well-known advocate for selling federal lands, is *de facto* acting director of BLM.[81] Secretary Bernhardt extended Pendley's authority repeatedly,[82] and Pendley himself signed the order extending the appointment indefinitely.[83] Two non-profits,[84] as well as Montana Governor Steve Bullock,[85] have filed lawsuits contesting the unprecedented – and, they argue, illegal – nature of Interior's delegation of responsibilities to Pendley. Although the Trump administration did formally nominate Pendley for Senate confirmation in 2020, the White House later withdrew the nomination.[86] On September 25, the federal District Court for the District of Montana found that Pendley had been serving unlawfully and ordered his removal.[87] Taken together, these actions and developments have destabilized BLM and given DOI political leadership more control over the agency.

Trump Second Term Trajectory

A second Trump administration could be very consequential for BLM, as Pendley has retained his leadership position, despite Congressional opposition to his formal nomination.[88] Some critics fear that the scattering of headquarters' staff could be a first step in the dissolution of BLM as a federal agency, or the abdication of BLM land management to states or private buyers.[89] The move would likely reduce Congressional oversight and make BLM more responsive to state interests. With a second term, the Trump administration may eliminate positions in the civil service that have remained unfilled, and could eliminate the capacity of BLM staff to conduct important land management activities such as environmental reviews, rulemakings, or land management planning. The result would be more consolidation of decision-making authority with the political appointees at Interior, who could use that authority to promote the energy dominance agenda at the risk of other public lands management priorities. How much influence Pendley continues to have on the bureau may depend on litigation outcomes, but his current role demonstrates that BLM isn't honoring its multiple-use, sustained-yield mandate.

Recommendations for a Biden Administration

Many of Biden's clean energy goals require an empowered, innovative BLM, and institutional capacity will be key to determining whether Biden can meet those goals. The president could nominate for Senate confirmation a BLM director who is committed to BLM's multiple-use and sustained-yield mandate, favoring people with training and backgrounds in natural resource management. The administration should move the headquarters back to Washington, DC, along with key staff whose positions would benefit from being in DC, such as budgetary, congressional relations, and rulemaking staff. Political leadership should delegate to the field offices decisions that have been centralized in this administration, and listen to career staff to ensure their expert views inform decision making. Finally, the new administration will need to engage in a substantial hiring effort to fill the many open positions across the agency.

Science and Multiple-Use Planning

Most projects on public lands require environmental reviews under NEPA. Additionally, FLPMA §202(c) calls on BLM to "use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences."[90]

Trump Administration Actions

The Trump BLM has decentralized NEPA review staff while centralizing the decision-making process. With its headquarters move, BLM scattered its in-house NEPA staff to state and regional offices, making coordination of NEPA review cumbersome.[91] At the same time, Interior centralized the review of environmental assessment drafts with political staff at the department.[92] This allows Interior political officials to influence environmental assessments.

BLM has also ignored climate change in the review processes and has not insisted on updating outdated environmental reviews before starting new projects. Although court decisions direct the agency to consider climate impacts when conducting NEPA reviews for permits,[93] the Trump administration has consistently failed to account for these impacts in its oil and gas leasing decisions.[94] The Trump administration's revised NEPA regulations – which affect all agencies – remove a requirement to consider cumulative and long-term impacts.[95] Additionally, one interviewee noted that the Obama administration attempted to perform new environmental reviews to ensure climate change and other changes to the natural resources were considered before a project proceeded. The Trump administration has taken the opposite approach – prioritizing speed over the incorporation of new scientific information into environmental reviews.[96] Such an approach risks irreversible harming public lands.

Trump Second Term Trajectory

As a result of the Trump administration's minimization of science, several non-profit groups have successfully sued to cancel and delay oil and gas development across the west.[97] A second term Trump administration could react to these lawsuits and better incorporate climate change science into its environmental reviews. But testimony by Secretary Bernhardt demonstrates that he doesn't believe FLPMA requires BLM to manage land in a way that mitigates climate change.[98] Taken together with Trump's energy dominance agenda, it's unlikely the Trump BLM would integrate scientific considerations beyond what is formally required.

Recommendations for a Biden Administration

A Biden administration would need to take significant steps to re-center and elevate science at BLM. The administration could reorganize the NEPA review staff into a single centrally-located office and revoke any administrative actions intended to ignore the impact of climate change. It should ensure that resource management plans are grounded in the best available science, including climate change science. BLM could consider chartering expert scientific panels to assist with planning. One interviewee noted that the panels could provide information to tribal governments as well regarding how projects would impact tribal lands.

Public Accountability and Engagement

Because BLM manages lands for multiple-use purposes, which often are incompatible with each other, public engagement with diverse stakeholders is frequently contentious. Developing processes and reaching solutions that appropriately balance these competing needs is foundational to BLM successfully meeting its mission. FLPMA also requires BLM to establish resource advisory committees (RACs), which are intended to incorporate local expertise into its decisions.[99]

Trump Administration Actions

The Trump administration has backtracked on BLM's previous efforts to meet its multi-use mission through broad stakeholder engagement and science-driven planning processes. Three projects exemplify how the Obama administration established precedent for BLM (in partnership with other agencies) to engage in collaborative landscape-level planning: the greater sage-grouse plans,[100] the Desert Renewable Energy Conservation Plan,[101] and oil and gas master leasing plans.[102] Rather than creating individual management plans, these projects streamlined the process in areas with significant competing interests and brought diverse stakeholders to the table to develop long-term, comprehensive plans that balance conservation and energy development. The Trump administration has undermined all three – long before they could be fully implemented.[103]

Additionally, the Trump administration and Congress have dismantled public accountability mechanisms at BLM.[104] In March 2017, Congress passed a resolution under the Congressional Review Act disapproving BLM's Planning 2.0 rule, and the president signed the resolution, repealing the rule.[105] The Planning 2.0 rule would have enhanced public engagement by involving more stakeholders earlier in the planning process, and it also emphasized using best available science.[106] In early 2018, BLM issued an instruction memorandum removing a requirement for a 30-day comment period when a lease sale is announced and reducing the public protest period for the sales.[107] In 2020, a judge for the Northern District of Idaho invalidated the 2018 instruction memo as applied to oil and gas leasing in sage-grouse habitat, but the decision didn't apply to all lease sales.[108] BLM has also rushed many regulatory changes[109] and changed processes for sharing scoping comments with the public.[110]

As part of Interior's secretarial review of any policies that might "potentially burden" energy development, the Trump BLM suspended 37 RACs, which are legally required under FLPMA to meet annually.[111] While some RACs eventually began to meet, the Trump administration altered their individual charters to focus primarily on accelerating oil and gas leasing, deregulation, and expanding recreation opportunities.[112] As one interviewee commented, these narrow charters resulted in non-representative membership.

Trump Second Term Trajectory

In a second term, the Trump administration would likely continue to limit public accountability. For example, Pendley announced an initiative to disempower BLM federal law enforcement and instead defer to local law enforcement on federal public lands.[113] Although these policies have not yet changed, the effort has been denounced as empowering right-wing extremists who seek to misuse federal public lands with impunity. BLM has also proposed to end the longstanding practice allowing official written protests to forest logging plans at BLM,[114] and there are reports that the administration is planning to change NEPA review requirements for land use plans.[115]

Recommendations for a Biden Administration

BLM should seek input on how to best return to collaborative, science-driven planning. Candidate Biden has pledged to increase renewable energy development on public lands, which will require agreement among many stakeholders, making it necessary to engage with the relevant parties early in the planning process. BLM also should re-form the RACs and establish new ways to engage with the public and interested groups early in the planning process.[116] The Biden administration should look to the Planning 2.0 rule as a starting place. Because the Congressional Review Act blocks an agency from implementing a rule that is "substantially the same," a Biden BLM will need to be careful when crafting the new regulations.[117] The Biden administration could consider creating specialized panels or land-unit based advisory councils that could incorporate broader constituencies in land management planning.

Nation-to-Nation Relationship With Tribal Nations

The lands BLM oversees are the former lands of Indigenous communities, and they remain important economic, cultural, historical, religious, and spiritual sites for these communities. BLM, like every federal agency, has a legal and ethical responsibility to authentically engage tribal nations in land management decisions. BLM's policy manual expresses a commitment to "building and sustaining an ongoing relationship with Indian tribes…founded upon consultation…as well as long-term personal and institutional relationships resulting from collaborative and cooperative programs of mutual interest…."[118]

Trump Administration Actions

Interviewees noted that the Trump BLM has complied with the requirement to consult with tribal nations only to the extent legally required, and sometimes not at all. One of the most well-known instances of this administration's failure to properly consult with tribes is the shrinking of and management changes to Bears Ears National Monument.[119] The monument represented successful efforts led by a coalition of tribes to work with President Obama and DOI,[120] but the Trump administration reduced the size of the monument by more than 1.1 million acres.[121] Though Secretary Zinke recommended that Congress authorize co-management with the tribes of areas within the monument, the Trump administration didn't pursue it further.[122]

Rather than directly consulting with the tribes affected by these changes, the administration created an advisory committee whose members were to be selected by the secretary of the Interior. The advisory committee ultimately didn't include anyone who had originally supported the monument.[123] The

administration reserved seats to represent tribal interests and filled them with two people who were members of the only chapter of the Navajo Nation that had originally opposed the monument.[124]

There are also reports that BLM is downplaying the historical significance of archaeological sites on proposed oil and gas sites to avoid consultation under the NHPA.[125] As part of an Office of the Inspector General investigation into incidents in New Mexico, one employee reported that "management seems more concerned about facilitating the approval and movement of industry projects than protecting cultural and/or archaeological sites."[126] BLM has also discontinued the Obama administration's practice of holding public hearings in the tribal nations affected by land management and leasing decisions. Interviewees noted that BLM instead has opted for limited written input from tribal nation leadership. Gwich'in tribes are also challenging BLM's plans to open the Arctic National Wildlife Refuge's coastal plain, an area that is sacred to the Gwich'in people, to oil and gas development.[127] Finally, many tribes have felt that efforts to consult digitally during the COVID-19 pandemic have not been meaningful.[128]

Trump Second Term Trajectory

If the Trump administration serves a second term, it's likely consultation with tribal nations will remain minimal. Despite Zinke's original recommendation, there's little reason to think the Trump administration would work towards co-management of lands under BLM's jurisdiction. BLM's exclusion of tribal governments in land management decisions could create lasting harm to BLM's already diminished stature among tribal nations, could lead to the destruction of important cultural and religious resources, and will continue the centuries of injustices imposed by the federal government against Indigenous people.

Recommendations for a Biden Administration

Under a Biden administration, BLM could reengage with tribal nations through traditional and innovative methods. Traditional methods would include re-implementation of government-to-government outreach and hosting public forums in Indigenous communities (particularly when remote or rural). BLM's policy manual calls for early consultation enhanced by regular communication with tribal nations.[129] As BLM sites new projects, it should work with tribal nations to identify sacred and culturally important sites that require protection.[130] The Biden administration should ensure employees are well trained and recognize the importance of consultation policies.

Consultation itself should not be the goal. Rather, the Biden administration could aim to create new methods of engagement and collaboration at each stage of the public land management process. [131] For example, creating land unit-based advisory councils like the Bears Ears Commission would encourage input from the tribal nations that have a stake in decisions. BLM should expand management agreements with tribal nations and could seek input on areas that would be suitable for co-management agreements.[132]

National Park Service Highlights

Mission: "Preserves unimpaired the natural and cultural resources and values of the National Park System for the enjoyment, education, and inspiration of this and future generations."

Institutional Capacity

Trump Admin. Actions to Date:

- Hasn't confirmed a director and acting director doesn't have NPS experience
- Politicized decision making and reduced superintendents' authority by restructuring
- Reassigned senior officials

Biden Admin. Recommendations:

- Consider appointing career employee as director
- Re-empower superintendents and restore the management structures that prevent political interference in park management

Science-Informed Decision Making

Trump Admin. Actions to Date:

- Revoked Director's Order 100
- Interfered with NPS' scientists' work and censors discussions of climate change
- Ended emphasis on climate change in park planning

Biden Admin. Recommendations:

- Reissue and potentially strengthen Director's Order 100
- Require consideration of climate change in park management and General Management Plans
- Involve scientists in use of Great American Outdoors Act projects

Public Accountability and Engagement

Trump Admin. Actions to Date:

- Reformed NEPA, which minimizes opportunity for public input in park planning
- Suspended advisory board and convened industry-packed boards
- Stalled efforts to make NPS more inclusive

Biden Admin. Recommendations:

- Broaden stories told at parks and make NPS more inclusive through additional units and hiring
- Strengthen advisory board and balance membership
- Explore ways to better involve public in planning process

Nation-to-Nation Relationship With Tribal Nations

Trump Admin. Actions to Date:

- Weakened local relationships with tribal nations by moving and disempowering superintendents
- Hasn't prioritized cooperative management
- Revoked guidance for increased incorporation of natural and cultural resource stewardship (Director's Order 100)

Biden Admin. Recommendations:

- Encourage and authorize superintendents to enter into access and management agreements with affiliated tribal nations
- Better incorporate traditional ecological knowledge into management and planning
- Undertake a model program for parks that are ripe for co-management

National Park Service

The National Park Service (NPS) manages over 400 sites in the national park system under a two-pronged mission to conserve and provide for public enjoyment "the scenery, natural and historic objects, and wildlife in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."[133] This is commonly referred to as a "perpetuity mission." Historically, NPS has been less susceptible to the changes in administration, largely because of the bipartisan support that national parks receive. But the Trump administration has interfered with NPS, and at times made it more challenging for NPS to carry out its mission.

Institutional Capacity

Pursuant to statutory requirements, NPS is run by a Senate-confirmed director, who "shall have substantial experience and demonstrated competence in land management and natural or cultural resource conservation."[134] NPS is the largest public lands bureau with around 20,000 employees.[135] Despite this number, understaffing at NPS is a perennial problem, with the number of full-time employees declining over the past decade.[136]

Trump Administration Actions

The Trump DOI has disempowered NPS staff and centralized decision making by not appointing a Senate-confirmed director, changing the management structure to increase the secretary's influence on park superintendents, and reassigning senior staff while leaving other positions vacant. NPS has been without a Senate-confirmed director for the entire Trump administration, and the current *de facto* acting director had never worked for NPS and lacks the statutorily required park management experience to serve in that position.[137] The former DOI employees we interviewed all identified the absence of an NPS director as the largest challenge facing NPS. The presence of acting directors has decreased accountability and steered the Service away from its core mission of preserving the parks.[138] Similar to BLM and FWS, interviewees commented that the level of centralized decision making at NPS is unprecedented. Because of legal restrictions on acting officials, Secretary Bernhardt has retained decision-making authority that would typically be delegated to a director.[139] According to some accounts, he's used this authority to politicize NPS.[140]

The Trump administration also reorganized Interior into 12 regions.[141] As part of the reorganization, Secretary Bernhardt created a new position of "Field Special Assistants" who are appointed by and report directly to the secretary.[142] As one interviewee noted, this reorganization removes middle managers who previously created a buffer between the political appointees in Washington D.C. and the park superintendents. Under the new system, requests go directly from the secretary to superintendents, increasing political influence in park management. They pointed to the reopening of parks during the COVID-19 crisis as an example of how the secretary exercises greater authority over decisions that usually would be made by superintendents working with their NPS supervisors.[143]

Finally, at the beginning of the Trump administration, DOI reassigned or attempted to reassign senior career employees, including the superintendent of Yellowstone, a widely venerated position in NPS.[144] Critics argue that DOI leadership carried out these reassignments to demonstrate the authority they planned to exercise over NPS. Additionally, many senior positions remain vacant nearly four years after President Trump's inauguration, and other positions have been filled by people who lack park management qualifications.[145]

Trump Second Term Trajectory

Environmental NGOs have sued DOI alleging that the continued use of acting directors is illegal.[146] Whether or not Bernhardt chooses to nominate a director to avoid further litigation, it's likely that he will continue to

exert significant control over NPS in a second term. While interviewees noted that there aren't yet long-term impacts from the past four years, they feared that an additional four years of politicized management could lead to more career staff departures and significant policy changes that would be detrimental to parks. For example, the Trump administration is attempting to expand recreation and opportunities for the private sector to operate services in parks. The current centralized management system would facilitate these changes if President Trump is reelected.

Recommendations for a Biden Administration

A Biden administration should nominate a strong director who can guide NPS back to its stewardship mission. Some interviewees noted that nominating a career employee could signal that the Biden administration is committed to restoring the relationship between political leadership and career staff; others noted the value of a political appointment who could balance credibility with NPS professionals and responsiveness to Department-wide initiatives. The NPS director should immediately speak to staff about a renewed focus on preservation and following the law. The director should also work with the DOI secretary to undo the regional reorganization and restore a management structure that will better insulate park-specific decision making from politics.

Science and Preservation

NPS must be able to use rigorous science to accomplish its perpetuity mission. The secretary is also statutorily required to "ensure that management of System units is enhanced by the availability and utilization of a broad program of the highest quality science and information."[147] NPS scientists conduct research that supports park management and will help NPS and the United States address the impacts of climate change.

Trump Administration Actions

The Trump administration has decreased the role of science-informed decision making at NPS by revoking an Obama-era resource management directive and interfering with scientists' work. At the end of the Obama administration, NPS Director Jon Jarvis issued Director's Order 100, *Resource Stewardship for the 21st Century*.[148] The order was based on a National Park System Advisory Board's Science Committee report that recommended updated resource management goals and policies for NPS.[149] Director's Order 100 "[reaffirmed] that resource stewardship is a preeminent duty of the NPS" and elevated the role of science in national park management.[150] It also included a provision seeking to increase the use of traditional ecological knowledge (TEK) in resource stewardship.[151] The Trump NPS, at the direction of Secretary Zinke, rescinded Director's Order 100 in August 2017.[152] The rescission left NPS without clear science-based principles for park management as threats to the park system increase.

The Trump administration's actions to censor discussions of climate change have also impacted employees at NPS. Early in the administration, Secretary Zinke reprimanded the superintendent of Joshua Tree National Park for his tweets about how climate change is affecting the park.[153] According to a survey by the Union of Concerned Scientists,[154] scientists at NPS were more likely than employees at other agencies to report climate change censorship. In an interview with the New York Times, NPS's chief climate change scientist discussed feeling intimidated after receiving a warning from superiors following his congressional testimony about climate change.[155]

Trump Second Term Trajectory

The Trump administration is not expected to change course if given a second term, and four more years of scientists being sidelined would likely lead to more scientists leaving NPS. Many national parks are in areas

susceptible to climate change impacts, such as wildfire-prone regions and seashores. Failing to account for climate change in planning decisions could be detrimental to those units.

Recommendations for a Biden Administration

NPS should develop an updated Director's Order 100 to ground park management in science-informed decision making and reintegrate climate change into management planning and other decisions. The NPS director should incorporate TEK and Indigenous Knowledge (this is the term used by Alaska Natives and others) into resource management efforts and work with colleagues at Interior to make that a more widespread practice. A Biden administration could revisit efforts to increase scientific training for all park staff. One interviewee recommended requiring that park superintendents have a certain level of scientific literacy.[156]

Congress recently passed the Great American Outdoors Act, which provides NPS with additional funds over the next five years to address its maintenance backlog.[157] One interviewee noted that NPS needs to incorporate input from the scientific community when deciding which projects to undertake and how. Interior could expand NPS' Development Advisory Board to include a scientist who could help review projects for climate change concerns and other scientific considerations.

Public Accountability and Engagement

NPS is a uniquely public-facing agency with a statutory obligation to educate the public and raise public awareness of the natural resources in the national park system.[158] Like other agencies, it also engages in land management planning and NEPA processes that require public input.

Trump Administration Actions

One of the core public engagement mechanisms at NPS is the development of general management plans (GMPs) for park units and the accompanying NEPA processes that require public input. GMPs are supposed to be updated at least every 20 years, but lack of funding has resulted in most parks operating under plans that haven't been updated in more than 20 years.[159] Although the problem isn't new to the Trump administration, the Trump administration's NEPA policies that limit the time and length of environmental reviews make it more difficult to meaningfully engage with the public.[160] Similarly, the removal of the requirement to consider cumulative impacts poses a distinctive dilemma for NPS, whose mission includes preserving park resources for public benefit "in perpetuity".[161]

The Trump administration has also diminished public accountability at NPS by disrupting advisory committees. After Secretary Zinke temporarily suspended Interior's advisory committees, DOI didn't convene the statutorily-mandated National Park System Advisory Board[162] until August 2019.[163] Ten of the Board's 12 members had resigned before the August 2019 meeting, stating that their requests to meet with Interior's leadership had been ignored.[164] Together, both secretaries neglected for three-and-a-half years the Board's express statutory responsibility to review and recommend National Historic Landmarks; the Subcommittee charged with leading the effort did not meet until late summer of 2020.

Interviewees noted that Secretary Zinke and Secretary Bernhardt also abolished all NPS park unit advisory committees. Meanwhile in 2018, DOI established the "Made in America" Outdoor Recreation Advisory Committee and privately convened an advisory committee to discuss electric bicycle (e-bike) use on public lands.[165] Both committees were dominated by industry, raised legal concerns regarding whether they complied with the Federal Advisory Committee Act, and were ultimately disbanded.[166]

Additionally, interviewees noted that the Trump administration has stalled efforts to ensure NPS and the programming it provides are representative of the US – efforts that are long overdue given the historic racism and continued lack of racial diversity at NPS.[167] While these problems aren't unique to NPS, NPS can play a large role in the national conversation because it manages sites of cultural significance and has an education mandate. Interviewees noted that the Obama administration began efforts to diversify park units and increase access, but the Trump administration has slowed this progress. For example, early in the Trump administration, NPS withdrew funding for a research project on the legacy of the Black Panther Party.[168] More recently, the park police's involvement in a White House-directed operation to disperse peaceful protestors around Lafayette Square during the Black Lives Matter protests in Washington, DC has led to an investigation by Interior's Office of Inspector General.[169]

Trump Second Term Trajectory

Given recently adopted changes to NEPA regulations that aim to shorten environmental reviews and limit which projects require a comprehensive environmental impact statement,[170] it will be difficult for the Trump NPS to undertake a planning process that prioritizes public engagement. The Trump administration's current rhetoric and methods for protecting national monuments indicates that a second-term Trump administration wouldn't prioritize building a more inclusive national parks system and NPS.[171] Instead, NPS will more likely focus on increasing public-private partnerships for public lands management and other strategies for increasing private sector involvement in national parks, as recommended by industry-dominated advisory groups. [172] NPS also recently proposed changes to regulations governing contracts with concessionaires,[173] which could lead to an increase in privatized management of park services.[174]

Recommendations for a Biden Administration

NPS should work to serve the broader public. The director could create a more inclusive NPS, through the units it manages, the history explained at those units, and hiring decisions. Reinvigorated NPS advisory committees could assist NPS in meeting these goals. The administration should also ensure that the process for revising GMPs involves robust public engagement. As one interviewee noted, designing a system that allows for meaningful public input on GMPs will require a creative leader; additional money won't be enough.

Nation-to-Nation Relationship With Tribal Nations

Indigenous communities historically lived, hunted, fished, gathered plants, developed medicines, and held spiritual ceremonies on land that is now within the National Park System. Many national parks encompass spiritually and culturally significant sites for Indigenous communities. The NPS Management Policies states that "The formal legal rationale for the relationship between the National Park Service and tribes is augmented by the historical, cultural, and spiritual relationships that American Indian tribes have with park lands and resources."[175] Yet, generally speaking, NPS permits tribal members to engage in very limited activities within park boundaries,[176] especially in parks in the lower 48 states.[177] The strength of the tribal-NPS relationship differs by park, and superintendents work with tribal nations to varying degrees through traditional consultation processes,[178] regular meetings,[179] and cooperative management agreements under the Tribal Self Governance Act (TSGA).[180]

Trump Administration Actions

The Trump administration's diminishment of institutional capacity directly impacts tribal governments. As one interviewee explained, when the Trump administration moved around superintendents with deep connections to the parks, tribes lost those established relationships – relationships that often take a long time to build. Furthermore, the centralization of decision making and the many employees who are only serving in

"acting" capacities mean that the park superintendents no longer have the authority to answer tribes' requests. The interviewee noted that as a result of this, everything has stalled.

Efforts to reach co-management and contract agreements between specific park units and local tribal nations have stalled. NPS hasn't ever fully taken advantage of opportunities afforded by the TSGA to work effectively with tribal nations.[181] While talks progressed under the Obama administration regarding a co-management plan with the Oglala Sioux and the south unit of Badlands National Park,[182] it was never finalized, and it has stalled under the Trump administration. Additionally, Director's Order 100 sought to enhance integration of natural and cultural resource stewardship and collaboration with tribal nations beyond the legally-required consultation.[183] While these policy goals represented only initial steps, the Trump administration undermined these efforts by rescinding Director's Order 100.

Trump Second Term Trajectory

Given the Trump administration's actions and failure to reaffirm the nation-to-nation relationship with tribal governments, it's unlikely authentic engagement on co-management opportunities with tribal nations will occur during a second term. While consultation – whether formal or informal – between superintendents and tribal nations at the individual park level may continue, the destabilization of the leadership structure could impact whether those conversations have lasting effects.

Recommendations for a Biden Administration

As mentioned above, the Biden NPS should reinstate, and ideally strengthen, Director's Order 100. Although consultation between park superintendents and tribal nations with connections to the park lands happens organically at some units, a Biden administration could further institutionalize expectations of regular meetings. NPS should enhance efforts to reach cooperative management agreements with tribes. NPS could determine which park units are most suitable for co-management with tribes and work with Congress to enter into agreements for those units. Multiple interviewees noted the importance of highlighting good examples of inclusive management to encourage more park superintendents to try it in their parks. This type of information sharing and a commitment to training NPS employees should complement any policy developments. Many interviewees emphasized that a change in attitude towards tribes' capacity to manage resources is necessary before co-management can succeed.

The Biden administration should work to increase access, especially for cultural ceremonies, for members of tribal nations with geographic connections to the parks. NPS could explore areas where plant gathering regulations could be extended to allow hunting, fishing, or other activities. One interviewee noted that the gathering rules were too complicated, however, and recommended that the Biden administration explore ways to give more authority to local superintendents to enter into unit-specific agreements with tribal governments.

US Fish and Wildlife Service Highlights

Mission: "Work with others to conserve, protect and enhance fish, wildlife and plants and their habitats for the continuing benefit of the American people."

Institutional Capacity

Trump Admin. Actions to Date:

- Confirmed a director who lacks a commitment to conservation or scientific background
- Involved political staff – often in acting capacities – in more decisions
- Restricted FWS' enforcement capacity

Biden Admin. Recommendations:

- Appoint a director committed to FWS' conservation mandate
- Delegate authority back to refuge managers and refrain from reassignments to retain refuge-specific knowledge
- Strengthen enforcement capacity

Science-Informed Decision Making

Trump Admin. Actions to Date:

- Interfered with scientists' work
- Rolled back compensatory mitigation policies, Endangered Species Act regulations, and protections for migratory birds
- Attempted to defund Landscape Conservation Cooperatives (LCCs)

Biden Admin. Recommendations:

- Issue statement about importance of science-informed decision making and reinstate independent science
- Undo changes to and strengthen science-based policies
- Support funding for LCCs

Public Accountability and Engagement

Trump Admin. Actions to Date:

- Reduced transparency through changes to FOIA guidance
- Expanded hunting and fishing at unprecedented levels

Biden Admin. Recommendations:

- Reform FOIA to re-establish presumption of openness
- Ensure recreation expansions only occur when compatible with refuges' purposes

Nation-to-Nation Relationships With Tribal Nations

Trump Admin. Actions to Date:

- Backtracked on returning the National Bison Range to the Confederated Salish and Kootenai Tribes
- Hasn't made progress on expanding access to or entering into cooperative management agreements at refuges

Biden Admin. Recommendations:

- Explore opportunities for co-management, including at National Bison Range
- Increase access for subsistence activities
- Increase collaboration with tribal members for interpretation at refuges
- Provide for consideration of Indigenous knowledge input to decisions
- Provide for consideration of Indigenous knowledge input to decisions

US Fish and Wildlife Service

The US Fish and Wildlife Service (FWS) has a clear conservation mandate. FWS manages over 150 million acres, including national wildlife refuges and fish hatcheries, for the "conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans."[184] Thus, the agency is tasked with protecting vulnerable species and habitats above all else, though it has multiple secondary goals, including expanding recreational opportunities, public access, and scientific research.

Under previous administrations, FWS was increasingly emphasizing actions to address climate change, anticipating impacts of adaptation of fish and water systems, and expanding the refuge system.[185] The Trump FWS has changed the agency's relationship to the laws at the core of its conservation mandate: NEPA, the Endangered Species Act (ESA), the Migratory Bird Treaty Act (MBTA), and others.

Institutional Capacity

FWS' ability to fulfill its conservation mission depends in large part on its approximately 9,000 employees spread across the nation.[186] Traditionally, and according to statute, FWS is led by a Senate-confirmed director and small cadre of political appointees who manage the much larger group of career staff. FWS is one of two main federal agencies tasked with enforcing the Endangered Species Act, which requires significant research and enforcement efforts.[187]

Trump Administration Actions

The Trump Administration has decreased FWS' institutional capacity through actions similar to those taken at NPS and BLM. FWS didn't have a confirmed director for nearly two years until the confirmation of Aurelia Skipwith, a Monsanto alumna known to be hostile to the Service's mission.[188] Despite this lack of Senate-confirmed leadership, interviewees noted that decisions previously made by career staff with little or no political input were increasingly referred to Interior's headquarters. For example, Steve Wackowski, an Interior political appointee, was instrumental in the Trump Administration's attempts to open the Arctic National Wildlife Refuge to oil and gas drilling.[189] While such an action would usually be considered and designed in large part by career staff based on the agency's scientific reports, Wackowski regularly clashed with FWS scientists and expedited the environmental review associated with the potential drilling.[190]

Additionally, the Trump Administration has restricted FWS' enforcement capacity. Congress charged FWS with enforcing the ESA, which prohibits the "taking" (e.g., harming or harassing) of endangered or threatened species.[191] This prohibition requires significant on-the-ground enforcement efforts to monitor, record, mitigate, and prevent such actions. FWS has traditionally trained some refuge managers as "dual-function officers," empowered as both administrators and law enforcement officers equipped with a firearm. In September 2018, the agency announced that dual-function officers would lose their law enforcement officer status.[192] This decision was made soon after then-Secretary Zinke expanded access to sportsmen and recreationists on refuges.[193] The agency stated that these decommissioned officers would be replaced with new staffing,[194] but this has yet to happen.

Trump Second Term Trajectory

Interviewees noted how the centralization of decision making and loss of institutional expertise could threaten the health of refuges, because refuge-specific decisions are now less common and less informed, and continued lack of enforcement capacity will put protected species at risk. Like at NPS, these shifts also impact FWS' relationship with local tribes, as relationship-building is more difficult when management changes.

Recommendations for a Biden Administration

A Biden administration could nominate a director with a strong conservation and scientific background to bolster career staff's confidence in their leadership's commitment to FWS' mission. The director could issue an internal memorandum emphasizing the centrality of conservation values, science-based decision making, and the depoliticization of agency actions. The new director should empower career staff and follow up with substantive actions enacting those values. The administration should delegate significant decision-making authority back to career staff, especially at the individual refuge or fishery level. FWS should also refrain from reassignments when possible to allow for the retention of refuge-specific knowledge.

To improve enforcement, a new administration could recommission refuge managers as dual-function officers tasked specifically with enforcing those statutes and policies of the individual refuges. Giving these officers narrow law enforcement missions will allow them to continue to fulfill the goals of FWS while not interfering with a new administration's efforts to address policing and policing reform more broadly.

Science and Conservation

Rigorous, unbiased science is important at FWS, because of its science-based conservation mission. FWS also serves as a sort of scientific consulting body for other federal agencies when federal actions may impact threatened or endangered species.[195]

Trump Administration Actions

The Trump Administration has minimized the efficacy and role of scientists at FWS. In a survey of FWS scientists conducted by the Union of Concerned Scientists early in the Trump Administration, 69% of respondents "noted the level of consideration of political interests as a burden to science-based decision-making."[196] FWS scientists specifically noted hiring freezes, shifting of resources away from politically contentious work, lack of professional development opportunities, and budget cuts all as factors weighing against their efficacy.[197]

These cultural changes are reflected in policy changes as well that undermine FWS' conservation mandate. In 2018, FWS revoked policies requiring companies to offset damage to fish, wildlife, and plants caused by their use of public lands.[198] The Trump administration also revised the implementing regulations of the ESA.[199] The revised regulations streamline the process for delisting species, while allowing the agency to downplay or ignore the biodiversity threats of climate change and to take into account economic factors when considering listing a species. Critics have pointed out that despite the regulations' continued use of the term "best available science," they may transfer control of the listing process away from scientists and into the hands of political appointees.[200] Further, FWS published an Office of the Solicitor a legal opinion[201] and later a proposed rule[202] that reinterprets the MBTA and prohibits the prosecution of incidental takes (killing) of migratory birds.[203] This move makes a large portion of the MBTA's conservation mandates voluntary.[204]

Secretary Zinke also attempted to defund or eliminate the Landscape Conservation Cooperative (LCC) Network.[205] LCCs have existed since the George W. Bush Administration, and support private and governmental conservation efforts for multiple agencies within the Department. LCCs have been particularly influential in climate and sage-grouse research. Critics viewed defunding as part of the larger attempt to minimize the role of climate science in public lands decision-making.[206] The move has been sharply rebuked, including by Congressional Republicans.[207]

Trump Second Term Trajectory

In a second term, science at FWS would likely remain diminished. A second term would bring clarity on FWS' intentions behind the wording change in the revised ESA regulations, but it is unlikely the Trump administration will meaningfully consider climate change effects in its ESA decisions. Meanwhile, the Trump administration is taking more steps to increase the role that economic impacts play in endangered species regulations. In 2020, the Trump administration has proposed two changes to critical habitat regulations. The first rule proposes a regulatory definition of "critical habitat,"[208] and the second proposal would give industry more influence in the economic impacts FWS considers when determining critical habitat.[209] Additionally, despite judicial setbacks, FWS will likely finalize the rule reinterpreting the MBTA.[210]

The Trump administration may also continue to interfere with science-based management of the refuge system. For example, since 2019, the Trump Administration has attempted to turn over control of most of the 1.6-million-acre Desert National Wildlife Refuge in Nevada to the Air Force.[211] Such change would deprive FWS of the chance to fulfill its congressionally-mandated duty to conserve the species in the refuge.

Recommendations for a Biden Administration

FWS and its scientists would benefit from a clear statement from Senate-confirmed leadership regarding the primacy of science at FWS, along with concrete steps taken to support scientists and scientific research. Specifically, the director should reiterate the FWS' policy on the communication of scientific work[212] and provide adequate resources to scientists including time, materials, and professional development opportunities. The director should also reprioritize LCCs, elevate the role of science in ESA listing, delisting, and habitat designation decisions, and reduce wherever possible political influence on decisions that can be based primarily on scientific considerations, such as the listing of species and critical habitat designation.

To further bolster the agency's fulfillment of its conservation mission, future administrations should focus on leveraging the unique bipartisan support of FWS as well as opportunities for collaboration with local groups and tribal governments to reprioritize conservation of vulnerable species and habitats. A Biden administration should rely on the staff that have dedicated careers to a conservation-oriented agency to enact those values. Doing so will ensure that decisions meant to be made by the agency — including recreation and conservation actions on federal lands — remain in the hands of FWS.[213]

Public Accountability and Engagement

Although the refuges are managed principally for conservation, they attract tens of millions of visitors each year.[214] The law allows FWS to authorize certain "wildlife-dependent recreational activities" on refuges if they are compatible with a refuge's purpose.[215] Hunting and fishing are included in the statute as two potential uses.[216] FWS is also required to get public input when making decisions about refuge management that invoke NEPA and when updating each refuge's "comprehensive conservation plan" every fifteen years.[217]

Trump Administration Actions

The Trump FWS has prioritized expanded recreational access to wildlife refuges and has inadequately involved the public in its decision making. For three years, FWS has opened unprecedented acres of refuges and hatcheries to hunting and fishing.[218] Critics worry that such large-scale openings don't adequately consider each refuge's specific purpose, and whether the additional recreational opportunities are compatible with that purpose. Secretary Bernhardt has also attempted to permit the construction of a 12-mile gravel road through the Izembek National Wildlife Refuge in Alaska without fully engaging the public.[219] After the action was blocked by a federal court in March of 2019,[220] Secretary Bernhardt revised the agreement to facilitate the

necessary land swap without giving the public notice.[221] The Department of Justice then dropped its appeal to the Ninth Circuit weeks later.[222]

Additionally, the Trump administration reduced FWS' transparency by changing how the agency processes FOIA requests. In September 2018, the agency circulated an internal memo from the Department of Justice intended to reduce the number of documents released related to ESA implementation, specifically for the purpose of withholding documents that might be detrimental during litigation.[223] The new guidance creates extra steps if a FOIA officer initially determines that a document doesn't need to be withheld from the public, which ultimately prevents some documents from being released. This reverses prior policy that instructed FOIA officers to work from the presumption of openness with such records.[224] These changes, combined with updated regulations[225]and secretarial orders,[226] have hamstrung hindered the public's ability to access accurate information regarding governmental decision making, defeating the core purpose of FOIA.[227]

Trump Second Term Trajectory

A Trump second term will probably continue to prioritize recreational use at the refuges over advancing FWS' conservation mission. And, while a federal judge in Alaska again blocked the agreement for the land swap in Alaska,[228] the Department of Justice has appealed the decision.[229]

Recommendations for a Biden Administration

A Biden FWS, working with the Department of Justice and DOI political staff, should issue a rule to replace the new 2019 FOIA guidance and return to a presumption of openness. A Biden administration should also allow for meaningful public comment when revising refuge plans. For example, FWS could involve stakeholders and the public in revisiting the hunting and fishing designations to ensure they are in balance with each refuge's conservation mission.

Nation-to-Nation Relationship With Tribal Nations

As with the other bureaus in the Department, FWS has continuing relationships with federally-recognized Indian tribes. In 2016, FWS updated its Native American policy for the first time in decades.[230] The policy "[included] guidance on co-management, access to and use of cultural resources, capacity development, law enforcement, and education."[231] Yet little has come of that update, and FWS has been slow to enter into agreements with tribal governments under the TSGA.[232]

Trump Administration Actions

In managing the National Wildlife Refuge System, the Trump DOI has sidelined or stalled collaborative opportunities. For example, as part of a push to emphasize tribal co-management and collaborative opportunities,[233] the Obama administration proposed to put the Bison Range under the management of the Confederated Salish and Kootenai Tribes.[234] The Bison Range is located wholly within the Flathead Indian Reservation in Montana.[235] Secretary Zinke reneged on this proposal, stating "[the Range] is a critical part of our past, present, and future, which is why I have changed course."[236]

The Trump administration's ESA implementation also affects tribal nations. For example, tribes have been involved in litigation challenging ESA decisions by the Trump administration, including the delisting of Yellowstone grizzly bears.[237]

Trump Second Term Trajectory

It's unlikely a second term Trump administration would prioritize inclusive management and expanded access of refuges for tribal members, unless relationships are strengthened at the local level. The administration continues to diminish ESA protections, which could lead to tribal nations filing additional lawsuits to protect important species.

Recommendations for a Biden Administration

The Biden FWS should reprioritize the government-to-government relationships with tribal nations, and should direct FWS to identify and pursue available opportunities to incorporate tribal stakeholders in managing lands within the National Wildlife Refuge System. The administration should re-initiate the planning process for the National Bison Range and strategically engage with FWS employees and the public to address opponents' concerns.[238] FWS should also explore opportunities to incorporate tribes as co-managers in other Refuges, or through incorporation in Landscape Conservation Cooperatives. FWS should including tribes as collaborative partners whenever possible (rather than opponents in litigation) in species conservation and listing efforts, especially for sensitive species such as wolves, grizzly bears, and polar bears.

Conclusion

The Trump administration has systematically diminished the Department of the Interior as an agency that is meant to conserve our public lands and balance competing uses. Each public lands agency within DOI has strayed from Congress' statutory mandates – whether it's multiple use and sustained yield at BLM, preservation and public enjoyment at NPS, or conservation at FWS. We hope that by describing what DOI and its land management agencies have done during the Trump administration, a future administration can use this information to restore Interior's capabilities, elevate the role of science, better involve the public in decision making, and meaningfully engage with tribal nations.

Appendix I: Recommendations

The following is a list of all the recommendations from our interviewees, in alphabetical order by topic. Many of the Department-Wide recommendations also apply to individual agencies, and we have not repeated them in those sections.

Department-Wide Recommendations

Institutional Capacity

Decision-Making Structure

- Establish new clearing processes for documents/decisions, including for NEPA reviews
- Only require clearance by the secretary when necessary
- Undo the centralization of decision making
- Undo the reorganization efforts

General Management/Running DOI

- Ask staff what resources they need; don't make assumptions
- Build accountability mechanisms (including deadlines) into any secretarial orders
- Build and use teams
- Engage in inter-bureau coordination at regional and national levels; Set up structures that will enable inter-bureau coordination
- Enhance training about how the agency functions and program administration
- Increase training opportunities
- Issue a statement of purpose that seeks career input and reorients DOI towards addressing pressing challenges like biodiversity crises and climate change
- Make Solicitor's Office independent from bureaus by increasing budget
- Reset the mission
- Restore confidence through good management
- Strengthen leadership structures

Regulatory Actions

- Consult the Solicitor's Office (as well as other offices) about what's already been tried
- Bolster the rulemaking resource office
- Improve the regulatory writing process
- Have two teams: one focused on policy and one on processes and mechanics

Review Changes from the Past Four Years

- Identify all Secretary's Orders and Department Manual Changes made under Trump administration that will need to be rescinded or revised
- Pause decisions to review for consistency with incoming administration
- Determine whether any interim procedures need to be put in place for NEPA or regulatory reviews to handle immediate issues and/or until guidance from WH
- Revise the regulatory agenda

Staffing Decisions

- Appoint career officials to senior positions
- ERB: Balance the political and career representation

- ERB: Require representation of all agencies
- Increase staffing – hire more mid-level people (potentially political appointees)
- Review current staffing and determine reassignments if appropriate

Public Accountability and Engagement

Collaboration/Coordination

- Develop site-specific collaborative structures
- Ensure the opinions of stakeholders that aren't part of the multi-stakeholder conversations are still being heard
- Leadership should push collaborative approaches forward
- Request funding from Congress for collaborative efforts

Ethics

- Enforce ethical standards and disclosure requirements
- Hire a reputable person to lead ethics reform
- Reform Inspector General's Office to restore its independence
- Review and strengthen ethics requirements as needed

FOIA

- Consult FOIA staff about what's needed to eliminate the backlog
- Halt existing political awareness review process and replace with process focused on giving a heads up
- Hire more FOIA officers
- Require more staff rotate through FOIA duties
- Work with DOJ to more reasonably use exemptions

Public Involvement

- Implement a more iterative process of comments
- Innovate with public comment opportunities
- Issue an "ethic memo" about atmosphere of accountability
- Reform NEPA to allow for more public input (undo restrictions put into place by Trump administration)

Science-Informed Decision Making

Addressing Scientists at DOI

- Convene DOI scientists and managers to assess what's happened
- Issue statement of principles regarding commitment to science
- Repair relationships with scientific staff; Listen to career staff about how their work should be incorporated
- Undo efforts to censor scientists

Expert Committees

- Consider convening advisory science panels
- Reconstitute advisory committees and boards

Hiring

- Equip Human Resources Department with standards for hiring scientists
- Hire a career employee as science advisor
- Increase overall hiring of scientists

NEPA

- Incorporate climate change into NEPA reviews
- Issue strong climate change guidance for NEPA reviews

Scientific Integrity

- Appoint scientific integrity officers through Intergovernmental Personnel Act
- Improve DOI's scientific capacity to respond to crises
- Recommit to scientific integrity policy; Reform scientific integrity to ensure it isn't politicized

Structural Suggestions

- Strengthen the Office of Policy Analysis
- Don't reorganize USGS; commission a narrow study to recommend a structure for 21st century
- Establish role of science advisor for each agency, and appoint person who is independent and doesn't have a stake in Interior's science programs
- Facilitate peer review – either by including in budget or creating a peer-review management team
- Improve system for processing cooperative agreements with external partners
- Provide funding for scientists to publish, partner with outside research entities, and share scientific knowledge
- Restore funding for climate adaptation centers
- Require each agency to develop three-year science plans

Nation-to-Nation Relationship With Tribal Nations

Consultation

- Lead an interagency effort to reform consultation
- Establish regional tribal advisory councils (EO 13,754, *North Bering Sea Climate Resilience*)
- Work with other agencies and offices within DOI to streamline consultation requests
- Issue an Instruction Memorandum reiterating responsibilities of land managers
- Formalize the consultation process further
- Require meaningful consultation

Cooperative Management/Co-Management

- Highlight successful cooperative management; look to state models for examples
- Increase grant funding for cooperative management

Internal Management

- Appoint Native American people to leadership positions at DOI
- Build in accountability mechanisms for consultation by regional and local directors
- Hire leaders who recognize tribal capacity
- Hire local or regional tribal liaisons

Interior-White House Coordination

- Strengthen White House Council on Native American Affairs

- Issue a new executive order emphasizing highest level of commitment to sovereignty and self-determination
- Reaffirm government-to-government relationship (EO 13,175)
- Re-initiate annual tribal leaders summits
- Work towards legislative fix to honor and incorporate Indigenous knowledge into decisions (going beyond consultation)
- Work towards legislative fix to engagement with tribal nations that goes beyond consultation

Leadership Actions

- Build trust and invest in repairing relationships
- Issue a statement about importance of cultural resources and sacred sites
- Lead by example on tribal engagement
- Make expert panels accessible to tribal governments
- Require that staff attend training on DOI policies relating to tribal nations and about Indigenous culture and history
- Reverse executive orders/proclamations that signaled decreased protection for cultural resources (e.g. Bears Ears reduction and Dakota Access Pipeline approval)
- Use intergovernmental contracts for temporary assignment of DOI staff to tribal nations and vice versa
- Work with Congress to better protect cultural resources
- Work with other agencies to make sure reform isn't just at Interior

Bureau of Land Management

Institutional Capacity

- Director should take a listening tour to hear what staff say
- Increase communication and coordination between regions
- Move headquarters back to DC (field office remains in Grand Junction)
- Move only staff that need to be in DC (including those that went to state and regional offices during reorganization)
- Reverse delegations
- Strengthen the planning shop at headquarters to help with resource management plan updates
- Transfer people who are in positions that don't fit their skillsets
- Work with legislature to prevent this type of move from happening again

Public Accountability and Engagement

- Bring in stakeholders early in the process
- Change name to show a symbolic restart
- Digitize plans to allow for more public input
- Enforcement capacity:
    - Issue guidance about valuing relationships with local sheriffs
    - Return to cooperative agreements with local sheriffs
    - Send high profile BLM staffer to Western Sheriffs Organization
- Engage with more groups in one-on-one meetings
- Go beyond what the law requires for public notice and comment
- Reconstitute RACs, return to former charters, and ensure diverse representation
- Revisit Planning 2.0 for methods to ensure more public input

- Review all systems for public input to ensure they're accessible and easy to use

Science and Multiple-Use Plans

- Appoint scientists to advisory committees
- Integrate climate change into NEPA reviews
- Look for landscape-scale planning or scientific information-sharing opportunities

Nation-to-Nation Relationship With Tribal Nations

- Incorporate trust relationship into FLPMA decision making
- Reform NEPA to encourage earlier consultation with other agencies and stakeholders
- Use Bears Ears as an example of cooperative management structure
- Work with Congress to reset planning and emphasize collaboration

National Park Service

Institutional Capacity

- Appoint acting directors that demonstrate the values of the new administration
- Change the regional structure to undo politicization of decision making
- Delegate decisions to superintendents/regional career staff
- Don't rush to fill senior positions; see what's needed
- Hold staff accountable for completing actions
- Reiterate that the laws and regulations matter
- Refrain from big reassignments to assuage concerns about transfers

Public Accountability and Engagement

- Broaden the stories and history taught at parks
- Continue support for Every Kid Outdoors initiative (previously Every Kid in a Park)
- Explore innovative ways to better engage public in planning process
- Fund planning office
- Invest in training to improve interpretation
- Review concessionaire proposed regulations to ensure it's an adequate fix
- Support diversity in accessibility and attractiveness of national parks
- Work with county and local governments to plan for increased visitation

Science and Preservation

- Address scientists and signal NPS plans to respect their work
- Appoint a scientist to the Development Board
- Create an inventory for recreation figures at each park unit
- Emphasize science-informed decision making for park management
- Follow advice of *Revisiting Leopold Report*
- Involve scientists in decisions regarding projects funded by the Great American Outdoors Act
- Reissue Director's Order 100 (or an updated version) and emphasize role of science
- Require that General Management Plans consider climate change
- Require that superintendents have a minimum level of science literacy
- Use interdisciplinary science to think through visitation challenges

Nation-to-Nation Relationship With Tribal Nations

- Address staff's potential biases towards tribal land management capacity
- Better incorporate traditional ecological knowledge into management and planning
- Build on plant-gathering regulations to allow for more access by members of tribal nations
- Consult with tribal governments early in the environmental review process
- Create a pilot program for returning some lands in the federal estate for co-management
- Emphasize to superintendents the need to engage in meaningful consultation
- Enter into more cooperative management agreements with tribal nations affiliated with specific parks; delegate more authority to superintendents to enter into agreements with tribal governments
- Highlight units that are successfully working with tribal nations
- Increase collaboration with tribal members for interpretation at parks
- Increase funding for Historic Preservation Fund Grants
- Inventory units that are ripe for co-management
- Re-initiate conversations about transferring Badlands South Unit
- Work with other bureaus to improve consultation

Fish and Wildlife Service

Institutional Capacity

- Appoint a director with a strong conservation background
- Delegate decision-making authority to refuge managers
- Orient FWS towards conservation mandate to empower staff
- Provide a restatement of purpose
- Rebuild leadership structures
- Refrain from reassignments when possible
- Strengthen enforcement capacity

Public Accountability and Engagement

- Allow expanded recreation, unless incompatible
- Revise FOIA guidance

Science and Conservation

- Enhance compensatory mitigation policies
- Issue memorandum emphasizing importance of conservation and science-informed decision making
- Restore conservation focus
- Revise science-based policies that have been rolled back, like ESA and MBTA regulations
- Support funding for Landscape Conservation Cooperatives

Nation-to-Nation Relationship With Tribal Nations

- Address staff's potential biases towards tribal land management capacity
- Explore options for cooperative management at refuges
- Increase access for compatible subsistence activities
- Increase collaboration with tribal members for interpretation at refuges

Appendix II: List of Interviewees

Thank you to all of the people who graciously spent time talking with us. We couldn't have done this project without the following people, as well as ten others who wish to remain anonymous:

Robert T. Anderson
Oneida Indian Nation Visiting Professor, Harvard Law School
Associate Solicitor, Indian Affairs (1995-1997); Counselor to the Secretary (1997-2001)

Jamie Rappaport Clark
President and CEO, Defenders of Wildlife
Director, US Fish and Wildlife Service (1997-2001)

Joel Clement
Senior Fellow, Harvard Belfer Center for Science and International Affairs
Director of Office of Policy Analysis at DOI (2011-2017)

George Frampton
Board Chair, Partnership for Responsible Growth
Assistant Secretary for Fish, Wildlife and Parks (1993-97)

David J. Hayes
Executive Director, State Energy & Environmental Impact Center at the NYU School of Law
DOI Deputy Secretary and Chief Operating Officer (2009-2013); DOI Deputy Secretary (1999-2001)

Jonathan B. Jarvis
18th Director of the National Park Service (2009-2017)

T. Destry Jarvis
President, Outdoor Recreation & Park Services, LLC
Assistant Director, NPS (1993-2000)

Sam Kalen
Centennial Distinguished Professor of Law and Associate Dean, University of Wyoming College of Law
DOI Office of the Solicitor (1994-1996)

Linda Lance
Senior Advisor, Partnership for Responsible Growth.
Deputy Director, Bureau of Land Management (2013-2017)

Amanda Leiter,
Senior Associate Dean for Faculty and Academic Affairs, American University Washington College of Law.
Deputy Assistant Secretary for Land and Minerals Management (2015-2017)

John D. Leshy
Distinguished Professor Emeritus, U.C. Hastings College of the Law
DOI Solicitor (1993-2001); Associate Solicitor (1977-1980)

Dr. Gary Machlis
University Professor of Environmental Sustainability, Clemson University
Science Advisor to the NPS Director (2009-2017)

Renee Stone
Senior Advisor to the President, Defenders of Wildlife
Former Chief of Staff of NPS and Deputy Solicitor

Mark Squillace
Raphael J. Moses Professor of Natural Resources Law, University of Colorado Law School

Jeanette Wolfley
Attorney and retired (Spring 2020) Professor University of New Mexico School of Law.

*Anonymous Former Solicitor

[a1] Thank you to Joe Goffman for his guidance on this project, James Pollack and Elizabeth Melampy for their research, and Robin Just for her excellent editing.

[1] Fact Sheet, The White House, President Donald J. Trump Is Unleashing American Energy Dominance (May 14, 2019), https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-unleashing-american-energy-dominance/.

[2] HARV. L. SCHOOL ENVTL. AND ENERGY L. PROGRAM: REGULATORY ROLLBACK TRACKER, https://eelp.law.harvard.edu/2017/09/mercury-and-air-toxics-standards/ (last visited Sept. 18, 2020).

[3] *Onshore Extractive Leasing*, HARV. L. SCHOOL ENVTL. AND ENERGY L. PROGRAM: REGULATORY ROLLBACK TRACKER (June 11, 2020) https://eelp.law.harvard.edu/2019/03/onshore-extractive-energy-leasing/.

[4] *National Monuments*, HARV. L. SCHOOL ENVTL. AND ENERGY L. PROGRAM: REGULATORY ROLLBACK TRACKER (Feb. 10, 2020) https://eelp.law.harvard.edu/2017/09/national-monuments-marine-national-monuments-and-marine-sanctuaries/.

[5] This report only discusses onshore public lands management. We use the term "public lands" throughout the report as shorthand for onshore public lands.

[6] We use the term "tribal nations" or "tribes" to refer to federally-recognized American Indian and Alaska Native tribes. At times, we use the term "Indigenous communities" to refer to both recognized and non-recognized tribes.

[7] *The Biden Plan for a Clean Energy Revolution and Environmental Justice*, https://joebiden.com/climate-plan/ (last visited Sept. 18, 2020).

[8] *About Interior*, U.S. DEP'T OF INTERIOR, https://www.doi.gov/about (last visited Sept. 18, 2020)

[9] *See* Secretarial Order No. 3355, Streamlining National Environmental Policy Act Reviews and Implementation of Executive Order 13807 (Aug. 31, 2017), https://www.doi.gov/sites/doi.gov/files/elips/documents/3355_-_streamlining_national_environmental_policy_reviews_and_implementation_of_executive_order_13807_establishing_discipline_and_accountability_in_the_environmental_review_and_permitting_process_for.pdf.

[10] *See e.g.* Memo from Cindy Cafaro, Departmental FOIA Officer, Dep't of the Interior, to Assistant Secretaries, Dep't of the Interior (May 24, 2018) https://www.doi.gov/sites/doi.gov/files/uploads/awareness_process_memo_final.pdf; Memo from Cindy Cafaro, Departmental FOIA Officer, Dep't of the Interior, to Assistant Secretaries, Dep't of the Interior (Feb. 28, 2019) https://www.doi.gov/sites/doi.gov/files/uploads/awareness_process_memo_2.0.pdf.

[11] *See* Memo from Scott J. Cameron, Principal Deputy Assistant Secretary for Policy, Management, and Budget, Dep't of the Interior, to Assistant Secretarties (Dec. 28, 2017), https://apps.washingtonpost.com/g/documents/national/interior-guidance-for-fiscal-2018-grants/2698/.

[12] *See* Heidi Kitrosser, *Accountability in the Deep State,* 65 U.C.L.A. L. REV. 1532, 1544 (2018) ("[U]nfettered political control of civil servants can defeat accountability by enabling political actors to manipulate the information that emerges from the executive branch.").

[13] Lisa Rein, *Interior chief want to shed 4,000 employees in department shake-up*, THE WASHINGTON POST (June 21, 2017), https://www.washingtonpost.com/powerpost/interior-chief-wants-to-shed-4000-employees-in-department-shake-up/2017/06/21/791cadd0-56a7-11e7-a204-ad706461fa4f_story.html.

[14] *See* DEP'T OF INTERIOR OFFICE OF INSPECTOR GENERAL, RE. NO. 2017-ER-061, REASSIGNMENT OF SENIOR EXECUTIVES AT THE U.S. DEP'T OF THE INTERIOR (April 2018); *See also* Joel Clement, *I'm a scientist. I'm blowing the whistle on the Trump administration.,* The Washington Post (July 19, 2017), https://www.washingtonpost.com/opinions/im-a-scientist-the-trump-administration-reassigned-me-for-speaking-up-about-climate-change/2017/07/19/389b8dce-6b12-

11e7-9c15-177740635e83_story.html (Joel Clement, a senior career official working on climate change's impacts on the arctic, resigned and blew the whistle about his reassignment.).

[15] *See* DEP'T OF INTERIOR OFFICE OF INSPECTOR GENERAL, RE. NO. 2017-ER-061, REASSIGNMENT OF SENIOR EXECUTIVES AT THE U.S. DEP'T OF THE INTERIOR 4 (April 2018), https://www.doioig.gov/sites/doioig.gov/files/FinalEvaluation_SESReassignments_Public.pdf (Documenting the reassignments).

[16] *See* DEP'T OF INTERIOR OFFICE OF INSPECTOR GENERAL, RE. NO. 2017-ER-061, REASSIGNMENT OF SENIOR EXECUTIVES AT THE U.S. DEP'T OF THE INTERIOR 10 fig. 3 (April 2018), https://www.doioig.gov/sites/doioig.gov/files/FinalEvaluation_SESReassignments_Public.pdf.

[17] The Departmental Manual "is the authorized means of documenting and issuing instructions, policies, and procedures that have general and continuing applicability to Departmental activities, or that are important to the management of the Department." DEP'T OF THE INTERIOR, DEPARTMENTAL MANUAL 011 DM 1 (Aug. 3, 2018), https://www.doi.gov/sites/doi.gov/files/elips/documents/chapter_1_purpose_and_structure.pdf.

[18] *See generally* COLUMBIA L. SCHOOL SABIN CENTER FOR CLIMATE CHANGE LAW, SILENCING SCIENCE TRACKER, https://climate.law.columbia.edu/Silencing-Science-Tracker (last visited Sept. 18, 2020) (filter results to DOI); UNION OF CONCERNED SCIENTISTS, ATTACKS ON SCIENCE, https://www.ucsusa.org/resources/attacks-on-science (last visited Sept. 18, 2020).

[19] UNION OF CONCERNED SCIENTISTS, SCIENCE UNDER TRUMP: VOICES OF SCIENTISTS ACROSS 16 FEDERAL AGENCIES 5–6 (2018), https://www.ucsusa.org/sites/default/files/images/2018/08/science-under-trump-report.pdf.

[20] Secretarial Order No. 3360, Rescinding Authorities Inconsistent with Secretary's Order 3349, 'American Energy Independence' (Dec. 22, 2017), https://assets.documentcloud.org/documents/4343673/3360-20-20Rescinding-20Authorities.pdf; *see also Department of the Interior's Compensatory Mitigation Policies*, HARV. L. SCHOOL ENVTL. AND ENERGY L. PROGRAM: REGULATORY ROLLBACK TRACKER, https://eelp.law.harvard.edu/2020/03/compensatory-mitigation-at-the-department-of-the-interior/ (last visited Sept. 18, 2020).

[21] *See* Memo from Scott J. Cameron, Principal Deputy Assistant Secretary for Policy, Management, and Budget, Dep't of the Interior, to Assistant Secretarties (Dec. 28, 2017), https://apps.washingtonpost.com/g/documents/national/interior-guidance-for-fiscal-2018-grants/2698/.

[22] Secretarial Order 3369, "Promoting Open Science" (Sept. 28, 2018), https://www.doi.gov/sites/doi.gov/files/elips/documents/so_3369_promoting_open_science.pdf.

[23] The order is currently in effect, and the Department of Interior (DOI) sent a proposed rule intended to further implement the order to the White House for pre-publication review in early 2020. *Promoting Open Science in the Regulatory System*, RIN No. 1090-AB20 (Published in Fall 2019 Regulatory Agenda).

[24] Secretarial Order 3369, Promoting Open Science (Sept. 28, 2018), https://www.doi.gov/sites/doi.gov/files/elips/documents/so_3369_promoting_open_science.pdf.

[25] While Interior officials promote the initiative as improving transparency, it's well documented – based on similar actions at EPA – that the intention is to restrict science. *See generally* EELP Staff, *Legal Shortcomings in EPA's So-Called 'Secret Science' Proposed Rule*, HARV. L. SCHOOL ENVTL. AND ENERGY L. PROGRAM: EPA MISSION TRACKER (May 1, 2018), https://eelp.law.harvard.edu/2018/05/changing-what-science-the-epa-will-consider-part-2/.

[26] Letter from Raúl Grijalva, Ranking Member, H. Comm. on Nat. Res., et al., to The Hon. Ryan Zinke, Interior Sec'y (Oct. 11, 2018), https://naturalresources.house.gov/imo/media/doc/Letter%20on%20DOI%20Science%20Policy%20October%2011%202018.pdf.

[27] *California v. Bernhardt*, Docket No. 4:18-cv-05712-YGR, slip. op. at 1 (N.D. Cal. July 15, 2020); *see also* Christy Goldfuss, Sally Hardin, & Marc Rehmann, *12 Climate Wins from the National Environmental Policy Act*, CTR. FOR AMERICAN PROGRESS (May 29, 2019), https://www.americanprogress.org/issues/green/news/2019/05/29/470374/12-climate-wins-national-environmental-policy-act/.

[28] USGS completes a five-year strategic science plan. *See Office of Budget, Planning, and Integration (BPI): Strategic Planning*, U.S. GEOLOGICAL SURV., https://www.usgs.gov/about/organization/science-support/budget/strategic-planning (last visited Sept. 18, 2020).

[29] The interviewee emphasized that these plans should include preparations for a future pandemic.

[30] Groups like the Union of Concerned Scientists and Public Employees for Environmental Responsibility also have robust lists of recommendations that Department officials could work to implement. *See* UNION OF CONCERNED SCIENTISTS, PRESIDENTIAL RECOMMENDATIONS FOR 2020 (Jan. 29, 2020) https://www.ucsusa.org/resources/presidential-recommendations-2020; PUBLIC EMPLOYEES FOR ENVT'L. RESPONSIBILITY, RESTORING SCIENCE, PROTECTING THE PUBLIC: 43 STEPS FOR THE NEXT PRESIDENTIAL TERM (June 2020), https://www.peer.org/wp-content/uploads/2020/06/6-11-2020-Restoring-Science-Protecting-the-Public.pdf.

[31] 42 U.S.C. §§ 4321-4370.

[32] 5 U.S.C. §500 et seq.

[33] 5 U.S.C. §552.

[34] *See generally* Andre F. Miller, *Cutting the Public Out of Public Lands*, WESTWISE (Jan. 13, 2020), https://medium.com/westwise/cutting-the-public-out-of-public-lands-b032c4cc01c2.

[35] Secretarial Order No. 3355, Streamlining National Environmental Policy Act Reviews and Implementation of Executive Order 13807 (Aug. 31, 2017), https://www.doi.gov/sites/doi.gov/files/elips/documents/3355_-_streamlining_national_environmental_policy_reviews_and_implementation_of_executive_order_13807_establishing_discipline_and_accountability_in_the_environmental_review_and_permitting_process_for.pdf. The Trump administration later finalized NEPA regulations that similarly direct agencies to shorten timelines and limit page lengths. Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 85 Fed. Reg. 43,304 (July 16, 2020)(To be codified at 40 C.F.R. §§1500-08; 1515-18).

[36] For more information on the use of categorical exclusions, *see* Marcilynn A. Burke, *Streamlining or Steamrolling: Oil and Gas Reform on Federal Public Lands in the Trump Administration,* 91 U. Colo. L. Rev. 453, 463, 469, 493-497 (2020).
[37] *Cf.* Exec. Order No. 12,866, 54 Fed. Reg. 51,735 (Oct. 4, 1993) ("Each agency should afford the public a meaningful opportunity to comment on any proposed regulation, which in most cases should include a comment period of not less than 60 days.).

[38] Review of Certain National Monuments Established Since 1996, 82 Fed. Reg. 22,016 (May 11, 2017).

[39] Memo from Cindy Cafaro, Departmental FOIA Officer, Dep't of the Interior, to Assistant Secretaries, Dep't of the Interior (May 24, 2018) https://www.doi.gov/sites/doi.gov/files/uploads/awareness_process_memo_final.pdf; Memo from Cindy Cafaro, Departmental FOIA Officer, Dep't of the Interior, to Assistant Secretaries, Dep't of the Interior (Feb. 28, 2019) https://www.doi.gov/sites/doi.gov/files/uploads/awareness_process_memo_2.0.pdf.

[40] Secretarial Order 3371, The Department of the Interior Freedom of Information Act Program (Nov. 20, 2018), https://www.doi.gov/sites/doi.gov/files/uploads/so_3371.pdf.

[41] Freedom of Information Regulations, 84 Fed. Reg. 61,820 (Nov. 14, 2019) (to be codified at 43 C.F.R. pt. 2).

[42] *See Testimony of Rachel Spector, Acting Deputy Chief, FOIA Officer, Department of the Interior, Hearing of Committee on Oversight and Reform*,116th Cong. (2019), https://fas.org/irp/congress/2019_hr/foia.pdf (Stating that incoming FOIA requests have increased 30% since Fiscal Year 2016, and 210% for the Office of the Secretary).

[43] Memo from Cindy Cafaro, Departmental FOIA Officer, Dep't of the Interior, to Assistant Secretaries, Dep't of the Interior (May 24, 2018) https://www.doi.gov/sites/doi.gov/files/uploads/awareness_process_memo_final.pdf; Memo from Cindy Cafaro, Departmental FOIA Officer, Dep't of the Interior, to Assistant Secretaries, Dep't of the Interior (Feb. 28, 2019) https://www.doi.gov/sites/doi.gov/files/uploads/awareness_process_memo_2.0.pdf.

[44] *See* DEP'T OF INTERIOR OFFICE OF INSPECTOR GENERAL, REP. NO. 20-0388

ALLEGED INTERFERENCE IN FOIA LITIGATION PROCESS (Aug. 2020); *see also* WESTERN VALUES PROJECT, RECENT ANALYSIS OF NATIONAL PARK SERVICE DOCUMENTS SHOW FOIA REQUESTS FROM MAJOR MEDIA AND WATCHDOG ORGANIZATIONS WERE SUBJECTED TO THE INTERIOR DEPARTMENT'S POLITICAL "AWARENESS REVIEW" PROCESS (June 2019), https://westernvaluesproject.org/wp-content/uploads/2019/06/WVP-Analysis-Political-Awareness-Review-Affected-Media-Watchdog-FOIA-Requests.pdf.

[45] *See e.g.* Letter from Raúl Grijalva, Ranking Member, H. Comm. on Nat. Res., et al., to The Hon. David Bernhardt, Interior Sec'y (Mar. 9, 2020), https://naturalresources.house.gov/imo/media/doc/2020-03-09%20Chair%20Grijalva%20to%20Sec%20Bernhardt%20Final%20Request%20for%20Documents.pdf; *see also* Benjamin J. Hulac, *Grijalva gets broadened subpoena power over GOP objections*, ROLLCALL (Feb. 12, 2020), https://www.rollcall.com/2020/02/12/grijalva-gets-broadened-subpoena-power-over-gop-objections/.

[46] Press Release, Dep't of the Interior, Secretary Bernhardt Transforms Interior's Ethics Program (Aug. 14, 2019), https://www.doi.gov/pressreleases/secretary-bernhardt-transforms-interiors-ethics-program.

[47] *See* Dino Grandoni, *The Energy 202: Trump administration continues oil and gas leasing during price drop and coronavirus pandemic*, THE WASHINGTON POST (Mar. 23, 2020), https://www.washingtonpost.com/news/powerpost/paloma/the-energy-202/2020/03/23/the-energy-202-trump-administration-continues-oil-and-gas-leasing-during-coronavirus-pandemic/5e752cba88e0fa101a74ec1a/; Jennifer Yachnin & Michael Doyle, *Coronavirus won't slow lease sales, rulemakings*, GREENWIRE (Mar. 17, 2020), https://www.eenews.net/greenwire/stories/1062629183/.

[48] *See e.g. Western Watersheds Project v. Zinke*, No. 1:18-cv-00187-REB, slip op. at 3 (N.D. Idaho Feb. 27, 2020).

[49] *Cf.* Dino Grandoni, *The Energy 202: Public hearings on Zoom have Native Americans worried they won't be heard on oil projects*, THE WASHINGTON POST (May 18, 2020), https://www.washingtonpost.com/news/powerpost/paloma/the-energy-202/2020/05/18/the-energy-202-public-hearings-on-zoom-have-native-americans-worried-they-won-t-be-heard-on-oil-projects/5ec15672602ff11bb1183c87/; Heather Richards, *'The would not unmute me.' Inside BLM's virtual meetings*, ENERGYWIRE (May 7, 2020), https://www.eenews.net/energywire/stories/1063068097/.

[50] *See generally* 1 COHEN'S HANDBOOK OF FEDERAL INDIAN LAW § 5.04(3) (2019) (describing the U.S. trust responsibility to tribes).

[51] *See, e.g.*, Jeanette Wolfley, *Reclaiming a Presence in Ancestral Lands: The Return of Native Peoples to the National Parks*, 56 NAT. RES. J. 55, 66–70 (2016) (describing how current NPS policy inadequately meets federal trust obligations).

[52] 54 U.S.C. § 302706.

[53] U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-19-22, TRIBAL CONSULTATION: ADDITIONAL FEDERAL ACTIONS NEEDED FOR INFRASTRUCTURE PROJECTS 8-11 (2019).

[54] Policy on Consultation with Indian Tribes, 76 Fed. Reg. 28,446 (May 17, 2011).

[55] For a list of additional sources of consultation obligations, *see* U.S. General Services Administration, Tribal Consultation, www.gsa.gov/tribalconsultation (last visited Sept. 18, 2020).

[56] 25 U.S.C. §§458aa-hh (2006). For more information on implementation of the law, *see* Mary Ann King, *Co-Management or Contracting? Agreements between Native American Tribes and the U.S. National Parks Service Pursuant to the 1994 Tribal Self-Governance Act*, 31 HARV. ENVTL. L. REV. 475 (2007).

[57] *See e.g.* Aliyah Chavez, *Crow Tribal Chairman endorses Trump campaign,* INDIAN COUNTRY TODAY (Sept. 15, 2020), https://indiancountrytoday.com/news/crow-tribal-chairman-endorses-trump-campaign-0XWBbrkBP0KzVwQnkjQo3A.

[58] Exec. Order. No. 13,175, 65 Fed. Reg. 67,249 (Nov. 9, 2000).

[59] *See* Acee Agoyo, Tribal consultation policies still lacking amid challenges in Trump era, INDIANZ.COM (April 23, 2019), https://www.indianz.com/News/2019/04/23/tribal-consultation-policies-still-lacki.asp.

[60] Secretarial Order No. 3342, Identifying Opportunities for Cooperative and Collaborative Partnerships with Federally Recognized Indian Tribes in the Management of Federal Lands and Resources (Oct. 21, 2016), https://www.doi.gov/sites/doi.gov/files/uploads/so3342_partnerships.pdf.

[61] *See e.g.* List of Programs Eligible for Inclusion in Funding Agreements Negotiated With Self-Governance Tribes by Interior Bureaus Other Than the Bureau of Indian Affairs and Fiscal Year 2020 Programmatic Targets, 85 Fed. Reg. 12,326 (March 2, 2020).

[62] Press Release, Dep't of the Interior, White House Re-Establishes Council on Native American Affairs to Support Continued Inter-Agency Coordination with Indian Country (Apr. 28, 2020), https://www.doi.gov/pressreleases/white-house-re-establishes-council-native-american-affairs-support-continued-inter; National Congress of American Indians called for the establishment of such a council in 2009, and its creation was seen as a significant step forward for the government-to-government relationship between the federal government and tribal nations.

[63] Because the administration moved the Council's new executive director from the White House to DOI, some tribal leaders questioned whether its transition should be seen as a demotion. *See* Acee Agoyo, *'He got demoted': Trump administration moves Indian Country official out of White House*, IDIANZ.COM (Apr. 29, 2020), https://www.indianz.com/News/2020/04/29/he-got-demoted-trump-administration-move.asp.

[64] *See Joe Biden's Commitment to Indian Country*, https://joebiden.com/joe-bidens-commitment-to-indian-country/ (last visited Sept. 18, 2020).

[65] The state of Oregon has many collaborative and management agreements with state and federally recognized tribes. *See* OREGON DEP'T OF FISH AND WILDLIFE, ODFW AND TRIBAL PARTNERSHIPS IN 2019 (Dec. 2019), https://www.oregonlegislature.gov/cis/GovToGovReports/2019%20(ODFW).pdf. Tribal nations associated with the Great Lakes have played a large role in management the lakes and fisheries. *See* Jacqueline Pehlan Hand, *Protecting the World's Largest Body of Fresh Water: The Often Overlooked Role of Indian Tribs' Co-Management of the Great Lakes,* 47 NAT. RESOURCES J. 815 (2007). Many other states are also increasingly using co-management agreements.

[66] U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-19-22, TRIBAL CONSULTATION: ADDITIONAL FEDERAL ACTIONS NEEDED FOR INFRASTRUCTURE PROJECTS 8-11 (2019).

[67] *See* Hilary Tompkins, *Tribes, Courts, & Consultation, American Bar Association Section of Environment*, ENERGY, AND RESOURCES, https://www.hoganlovells.com/en/publications/tribes-courts-consultation ("[Engagement] with tribes early in the decision-making process, beyond what is offered to the general public, can pay dividends later.").

[68] While some interviewees felt strongly that BLM needed to move its headquarters back to DC, other interviewees thought that, if necessary for political reasons, it could be possible to move only the appropriate staff back to DC.

[69] *What We Manage*, BUREAU OF LAND MGMT., https://www.blm.gov/about/what-we-manage/national (last visited Sept. 18, 2020).

[70] *Our Mission*, BUREAU OF LAND MGMT., https://www.blm.gov/about/our-mission (last visited Sept. 18, 2020).

[71] 43 U.S.C. §§ 1701–1787 (1976)

[72] *See* 43 U.S.C. § 1701(a) (1976)

[73] *See* MARK H. DESANTIS, CONG. RSCH. SERV., R45480, U.S. DEPARTMENT OF THE INTERIOR: AN OVERVIEW 4, FIG. 10 (March 2019).

[74] *See* Heather Hansman, *The Problem with the BLM Moving to the West*, OUTSIDE (Nov. 21, 2019), https://www.outsideonline.com/2405827/blm-move-grand-junction-colorado-problem.

[75] *See* MARK H. DESANTIS, CONG. RSCH. SERV., R45480, U.S. DEPARTMENT OF THE INTERIOR: AN OVERVIEW 24, fig. 4 (March 2019).

[76] *See* Heather Hansman, *The Problem with the BLM Moving to the West*, OUTSIDE (Nov. 21, 2019), https://www.outsideonline.com/2405827/blm-move-grand-junction-colorado-problem.

[77] U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-20-397R, BUREAU OF LAND MANAGEMENT: AGENCY'S REORGANIZATION EFFORT DID NOT SUBSTANTIALLY ADDRESS KEY PRACTICES FOR EFFECTIVE REFORMS 3 (2020); *BLM Disorganization: Examining the Proposed Reorganization and Relocation of the Bureau of Land Management Headquarters to Grand Junction, Colorado before the H. Comm. on Natural Res.*, 116th Cong. (2019) (Testimony of William Perry Pendley, Deputy Dir., Policy and Programs, Bureau of Land Mgmt.), https://www.doi.gov/ocl/blm-reorganization.

[78] U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-20-397R, BUREAU OF LAND MANAGEMENT: AGENCY'S REORGANIZATION EFFORT DID NOT SUBSTANTIALLY ADDRESS KEY PRACTICES FOR EFFECTIVE REFORMS 4 (2020); *BLM Disorganization: Examining the Proposed Reorganization and Relocation of the Bureau of Land Management Headquarters to Grand Junction, Colorado before the H. Comm. on Natural Res.*, 116th Cong. (2019) (Testimony of William Perry Pendley, Deputy Dir., Policy and Programs, Bureau of Land Mgmt.), https://www.doi.gov/ocl/blm-reorganization.

[79] Mike Spies & J. David McSwane, *Inside the Trump Administration's Chaotic Dismantling of the Federal Land Agency*, PROPUBLICA (Sept. 20, 2019), https://www.propublica.org/article/inside-the-trump-administrations-chaotic-dismantling-of-the-federal-land-agency.

[80] *Cf. BLM Disorganization: Examining the Proposed Reorganization and Relocation of the Bureau of Land Management Headquarters to Grand Junction, Colorado before the H. Comm. on Natural Res.*, 116th Cong. (2019) (Testimony of William Perry Pendley, Deputy Dir., Policy and Programs, Bureau of Land Mgmt.), https://www.doi.gov/ocl/blm-reorganization ("Under the BLM's implementation plan, the Deputy Director of Policy and Programs will remain in Washington, D.C., along with 60 staff who will continue to perform functions in the Main Interior Building that are inherently and logically located in Washington. For example, a majority of the Bureau's staff who directly inform and perform duties tied to its budgetary responsibilities will continue to remain in Washington, D.C. as will a majority of the staff performing functions in its Legislative Affairs, Regulatory Affairs, Public Affairs, and Freedom of Information Act divisions.").

[81] Pendley's title is, "Deputy Director, Policy and Programs, exercising the delegated authority of the Director, Bureau of Land Management." *See* Memo from William Perry Pendley, Deputy Director, Policy and Programs, to Casey Hammond, Principal Deputy Assistant Secretary (May 22, 2020), https://www.eenews.net/assets/2020/08/19/document_gw_03.pdf.

[82] *See* Steven Mufson, *Interior secretary extends the tenure of federal lands chief — without a presidential nomination*, THE WASHINGTON POST (Jan. 2, 2020), https://www.washingtonpost.com/climate-environment/interior-secretary-extends-the-tenure-of-federal-lands-chief----without-nominating-him/2020/01/02/0facd6fe-2da0-11ea-9b60-817cc18cf173_story.html.

[83] Memo from William Perry Pendley, Deputy Director, Policy and Programs, to Casey Hammond, Principal Deputy Assistant Secretary (May 22, 2020), https://www.eenews.net/assets/2020/08/19/document_gw_03.pdf.

[84] *Public Employees for Envt'l. Responsibility v. Bernhardt*, No. 1:20-cv-01224 (D.D.C. May 11, 2020).

[85] *Bullock v. Bureau of Land Management*, No. 4:20-cv-00062-BMM (D. Mont. July 20, 2020).

[86] Press Release, The White House, President Donald J. Trump Announces Intent to Nominate and Appoint Individuals to Key Administration Posts (June 26, 2020), https://www.whitehouse.gov/presidential-actions/president-donald-j-trump-announces-intent-nominate-appoint-individuals-key-administration-posts-43/ (sending the nomination of Pendley to the Senate); Press Release, The White House, Eleven Nominations and Three Withdrawals Sent to the Senate (Sept. 8, 2020), https://www.whitehouse.gov/presidential-actions/eleven-nominations-three-withdrawals-sent-senate/ (withdrawing Pendley's nomination).

[87] *Bullock v. Bureau of Land Management*, No. 4:20-cv-00062-BMM (D. Mont. Sept. 25, 2020).

[88] *See* Perrin Stein, *Pendley BLM nomination pulled; groups continue to push for removal*, BOZEMAN DAILY CHRON. (Aug. 18, 2020), https://www.bozemandailychronicle.com/news/pendley-blm-nomination-pulled-groups-continue-push-for-removal/article_713bbf89-3a7f-5762-94cc-8faaf3f4a0f3.html.

[89] *See* Bob Moore, *Guest Commentary: Don't dismantle the BLM by moving its headquarters to Grand Junction*, THE DENVER POST (Dec. 13, 2019), https://www.denverpost.com/2019/12/13/dont-dismantle-the-blm-headquarters-move-grand-junction/; Dana Milbank, *This is how the Trump administration quietly incapacitates the government*, The Washington Post (Sept. 10, 2019), https://www.washingtonpost.com/opinions/this-is-how-the-trump-administration-quietly-incapacitates-the-government/2019/09/10/109a54c0-d412-11e9-9610-fb56c5522e1c_story.html.

[90] 43 U.S.C. § 1712(a).

[91] Rebecca Beitsch, *BLM move would split apart key public lands team*, THE HILL (Oct. 14, 2019), https://thehill.com/policy/energy-environment/465687-blm-move-would-fragment-environmental-team-that-vets-development-of.

[92] Secretarial Order No. 3355, Streamlining National Environmental Policy Act Reviews and Implementation of Executive Order 13807 (Aug. 31, 2017), https://www.doi.gov/sites/doi.gov/files/elips/documents/3355_-_streamlining_national_environmental_policy_reviews_and_implementation_of_executive_order_13807_establishing_discipline_and_accountability_in_the_environmental_review_and_permitting_process_for.pdf.

[93] *See e.g. Wildearth Guardians v. Zinke*, 368 F.Supp.3d 41, 59 (D.D.C. 2019); *See also* Christy Goldfuss, Sally Hardin, & Marc Rehmann, *12 Climate Wins from the National Environmental Policy Act*, CTR. FOR AMERICAN PROGRESS (May 29, 2019), https://www.americanprogress.org/issues/green/news/2019/05/29/470374/12-climate-wins-national-environmental-policy-act/.

[94] *See* Christy Goldfuss, Sally Hardin, & Marc Rehmann, *12 Climate Wins from the National Environmental Policy Act*, CTR. FOR AMERICAN PROGRESS (May 29, 2019), https://www.americanprogress.org/issues/green/news/2019/05/29/470374/12-climate-wins-national-environmental-policy-act/.

[95] Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 85 Fed. Reg. 43,304 (July 16, 2020) (To be codified at 40 C.F.R. §§1500-08; 1515-18).

[96] *See generally* Marcilynn A. Burke, *Streamlining or Steamrolling: Oil and Gas Reform on Federal Public Lands in the Trump Administration,* 91 U. Colo. L. Rev. 453, 467-481(2020); *see also e.g.* Niina H. Farah, *BLM halts leases after sage grouse, climate legal brawls,* ENERGYWIRE (Nov. 14, 2019), https://www.eenews.net/stories/1061543717; *but see NAEC v. DOI*, No. 19-

35008 (9th Cir. July 9, 2020)(Finding that BLM did not violate the National Environmental Protection Act by relying on its 2012 Environmental Impact Statement for the National Petroleum Reserve-Alaska to conduct lease sales in 2017).

[97] *See* Christy Goldfuss, Sally Hardin, & Marc Rehmann, *12 Climate Wins from the National Environmental Policy Act*, CTR. FOR AMERICAN PROGRESS (May 29, 2019), https://www.americanprogress.org/issues/green/news/2019/05/29/470374/12-climate-wins-national-environmental-policy-act/.

[98] Rebecca Beitsch, *Trump Interior chief says climate change response falls on Congress*, THE HILL (May 7, 2019), https://thehill.com/policy/energy-environment/442605-interior-secretary-says-climate-change-response-falls-on-congress.

[99] 43 U.S.C. §1739 (1970).

[100] *BLM Greater Sage-Grouse Plans*, BUREAU OF LAND MGMT., https://www.blm.gov/programs/fish-and-wildlife/sagegrouse/blm-sagegrouse-plans (last visited Sept. 18, 2020).

[101] *See Desert Renewable Energy Conservation Plan*, BUREAU OF LAND MGMT., https://www.blm.gov/programs/planning-and-nepa/plans-in-development/california/desert-renewable-energy-conservation-plan (last visited Sept. 18, 2020).

[102] *See* BUREAU OF LAND MGMT., INSTRUCTION MEMORANDUM NO. 2013-101, OIL AND GAS LEASING REFORM – MASTER LEASING PLANS (April 12, 2013), https://www.blm.gov/policy/im-2013-101-0.

[103] *See* GRANT GARDNER, JASON CARLISLE, & CHAD LEBEAU, OIL AND GAS DEVELOPMENT ON FEDERAL LANDS AND SAGE-GROUSE HABITATS: OCTOBER 2015 TO MARCH 2019, at 7 (2019), https://www.audubon.org/sites/default/files/greater_sage-grouse_habitat_reportfinal_20190725.pdf; Press Release, Bureau of Land Mgmt., BLM CANCELS WITHDRAWAL PROPOSAL IN CALIFORNIA DESERT (Feb. 6, 2018), https://www.blm.gov/press-release/blm-cancels-withdrawal-proposal-california-desert; BUREAU OF LAND MGMT., INSTRUCTION MEMORANDUM NO. 2018-034, UPDATING OIL AND GAS LEASING REFORM – LAND USE PLANNING AND LEASE PARCEL REVIEWS (Feb. 1, 2018), https://www.blm.gov/policy/im-2018-034.

[104] *See generally* Michael C. Blumm & Olivier Jamin, *The Trump Public Lands Revolution: Redefining "The Public" In Public Lands*, 48 ENVTL. L. 311 (Spring 2018).

[105] Public Law 115-12, 131 Stat. 76 (2017).

[106] Resource Management Planning, 81 Fed. Reg. 89,580 (Dec. 12, 2016) (Codified at 43 C.F.R. pt. 1600).

[107] BUREAU OF LAND MGMT., INSTRUCTION MEMORANDUM NO. 2018-034, UPDATING OIL AND GAS LEASING REFORM – LAND USE PLANNING AND LEASE PARCEL REVIEWS (Feb. 1, 2018), https://www.blm.gov/policy/im-2018-034.

[108] *Western Watersheds Project v. Zinke*, No. 1:18-cv-00187-REB, slip op. at 3 (N. D. Idaho Feb. 27, 2020).

[109] *See generally* Michael C. Blumm, Olivier Jamin, *The Trump Public Lands Revolution: Redefining "The Public" In Public Lands*, 48 ENVTL. L. 311 (Spring 2018).

[110] *See* Bobby Magill, *When Public Comments Aren't Public: Land Agency Holding Records*, BLOOMBERG LAW (June 24, 2020), https://news.bloomberglaw.com/environment-and-energy/when-public-comments-arent-public-land-agency-holding-records.

[111] 43 U.S.C. §1739.

[112] *See e.g.* Bureau of Land Mgmt., Mojave-Southern Great Basin Resource Advisory Council Charter §4 (2018), *https://www.blm.gov/sites/blm.gov/files/documents/files/Nevada-2018-MOSO%20signed%20charter.pdf*

[113] *See* William Perry Pendley, Commentary: Building trust with Westerners, LAS VEGAS REVIEW-JOURNAL (Nov. 16, 2019), https://www.reviewjournal.com/opinion/commentary-building-trust-with-westerners-1894676/ ("Rangers…partner with local law enforcement, while recognizing that counties are a governmental-arm of sovereign states. Maintaining that deference is essential to making BLM a truly productive and valued partner to Western communities.).

[114] Forest Management Decision Protest Process and Timber Sale Administration, 85 Fed. Reg. 35,049 (proposed June 8, 2020).

[115] *See* Bobby Magill, *Land Bureau May Exempt Plans from Environmental Review*, BLOOMBERG LAW (Feb. 4, 2020), https://news.bloomberglaw.com/environment-and-energy/trumps-land-agency-may-exempt-plans-from-environmental-review.

[116] *See generally* Mark Squillace, *Rethinking Public Land Use Planning*, 43 HARV. ENVTL. L. REV. 415, 459-463 (2019).
[117] 5 U.S.C. §801(b)(2)("A rule that does not take effect (or does not continue) under paragraph (1) may not be reissued in substantially the same form, and a new rule that is substantially the same as such a rule may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule.").

[118] BUREAU OF LAND MGMT., BLM MANUAL, MS-1780-TRIBAL RELATIONS, 1-13 blm.gov/sites/blm.gov/files/uploads/MS%201780.pdf.

[119] Proclamation No. 9681, Modifying the Bears Ears National Monument, 82 Fed. Reg. 58,081 (Dec. 8, 2017). Other occurrences include the closely related shrinking of Grand Staircase-Escalante, Colin Dwyer, *Trump Administration Finalizes Plans to Allow Development on Downsized Monuments,* NPR (February 6, 2020), https://www.npr.org/2020/02/06/803467297/trump-administration-finalizes-plans-to-allow-development-on-downsized-monuments, the opening up of Chaco Culture National Historical Park to energy development, Kendra Chamberlain, *BLM Will Move Forward on Greater Chaco Drilling Proposal While Communities Grapple with COVID-19 Surge,* THE N.M. POLITICAL REPORT (May 2, 2020), https://nmpoliticalreport.com/2020/05/02/blm-will-move-forward-on-greater-chaco-drilling-proposal-while-communities-grapple-with-covid-19-surge/, and the expansion of drilling near the Ruby Mountains, Tiffany Higgins, *Te-Moak Tribe Decries Lack of Consultation on Drilling Plans,* THE REVELATOR (April 3, 2019), https://www.indianz.com/News/2019/04/03/the-revelator-temoak-tribe-decries-lack.asp.

[120] *See* Tim Peterson, *Tribes Celebrate Designation of National Monument at Bears Ears,* INDIANZ.COM (Jan. 9, 2017), https://www.indianz.com/News/2017/01/09/tribes-celebrate-designation-of-national.asp.

[121] Proclamation No. 9681, Modifying the Bears Ears National Monument, 82 Fed. Reg. 58,081 (Dec. 8, 2017).

[122] Memorandum from The Sec'y of the Interior Ryan Zinke to the President, 10 (Aug. 24, 2017) ("You should request congressional authority to enable tribal co-management of designated cultural areas within the revised [Bears Ears National Monument] boundaries.").

[123] *See* Brian Maffly, *Feds Stack Bears Ears Advisory Group With Critics of Southern Utah Monument,* THE SALT LAKE TRIB. (Apr. 23, 2019), https://www.sltrib.com/news/environment/2019/04/23/feds-stack-bears-ears/.

[124] *See* Salt Lake Trib. Editorial Board, *Tribune Editorial: Bears Ears committee is a monument to bad intentions*, THE SALT LAKE TRIB. (April 27, 2019), https://www.sltrib.com/opinion/editorial/2019/04/27/tribune-editorial-bears/.

[125] *See* Heather Richards, *Tribes Accuse BLM of Shutting Them Out on Drilling Decisions,* E&E NEWS (July 16, 2019), https://www.eenews.net/stories/1060744797.

[126] U.S. DEP'T OF THE INTERIOR, OFF. OF THE INSPECTOR GEN., ALLEGED WILLFUL VIOLATION OF REGULATIONS BY BLM OFFICIAL, Case No. OI-OG-18-0347-I, Attachment 4, 2 (2018), https://www.documentcloud.org/documents/6186975-Wiles-2019-00049-Responsive-Documents.html.

[127] *Gwich'in Steering Committee v. Bernhardt*, No. 3:20-cv-00204 (D. Alaska Aug. 24, 2020); *Native Village of Venetie Tribal Government v. Bernhardt*, No. 3:20-cv-00223 (D. Alaska Sept. 9, 2020). Members of the Iñupiat tribe are generally more supportive of leasing in the Arctic National Wildlife Refuge. *See* VOICE OF THE ARCTIC IÑUPIAt, https://voiceofthearcticinupiat.org/about/ (listing development of the North Slope as the organization's third priority).

[128] *See* Anna V. Smith, *Tribal Leaders Oppose Online Consultations with The U.S. During the Pandemic*, HIGH COUNTRY NEWS (May 27, 2020), https://www.hcn.org/articles/covid19-indigenous-affairs-tribal-leaders-oppose-online-consultations-with-the-us-during-the-pandemic (tribal leaders say that consultation with BLM has not been meaningful during the COVID-19 pandemic); *see also* Susan Montoya Bryan, *Pueblos, lawmakers seek pause on Chaco plan*, ASSOCIATED PRESS (Aug. 29, 2020), https://www.abqjournal.com/1491587/pueblos-seek-pause-on-chaco-plan.html.

[129] BUREAU OF LAND MGMT., BLM MANUAL, MS-1780-TRIBAL RELATIONS, 1-1 to 1-2 (2016), https://www.blm.gov/sites/blm.gov/files/uploads/MS%201780.pdf.

[130] Tribal governments are often hesitant to provide the location of sacred or culturally important sites because of Interior's confidentiality policies. For more information, *see* Jeanette Wolfley, *Reclaiming a Presence in Ancestral Lands: The Return of Native Peoples to the National Parks*, 56 NAT. RESOURCES J. 55, 78-80 (Winter 2016).

[131] One interviewee noted the possibility of integrating the government's trust relationship with tribal nations into FLPMA decision-making, which would create a policy lever for ensuring development doesn't harm native communities.

[132] For a discussion on co-management with BLM, s*ee* Brett Kenney, Tribes as Managers of Federal Lands, 27-SUM. NAT. RESOURCES & ENV'T 47, 49-50 (2012).

[133] 54 U.S.C. §100101(a).

[134] 54 U.S.C. § 100302(a)(2).

[135] *See* MARK H. DESANTIS, CONG. RSCH. SERV., R45480, U.S. DEPARTMENT OF THE INTERIOR: AN OVERVIEW 13 (March 2019). (The number fluctuates because NPS relies on a large number of seasonal and part-time employees).

[136] Press Release, Public Employees for Envt'l Responsibility, Evaporating National Park Staff Levels (Nov. 5, 2019), https://www.peer.org/evaporating-national-park-staff-levels/.

[137] Secretarty Bernhardt allowed Deputy Director David Vela to "[exercise] the authority of the Director" for 10 months, including an order extending his term indefinitely. Two environmental organizations have filed a lawsuit arguing that these actions violate the Federal Vacancies Reform Act. *See Public Employees for Envt'l. Responsibility v. Bernhardt, No. 1:20-cv-01224* (D.D.C. May 11, 2020). Following Vela's retirement, Secretary Bernhardt authorized Margaret Everson "to Exercise the Delegable Authority of the Director of the [NPS]" rather than make her the acting director. *See* Press Release, Dep't of the Interior, Secretary Bernhardt Designates Margaret Everson to Exercise the Delegable Authority of the Director of the National Park Service (Aug. 7, 2020), https://www.doi.gov/pressreleases/secretary-bernhardt-designates-margaret-everson-exercise-delegable-authority-director.

[138] *See* Theresa Pierno & Phil Francis, *No one at the helm of America's national parks*, THE HILL (Feb. 17, 2020), https://thehill.com/opinion/energy-environment/483173-no-one-at-the-helm-of-americas-national-parks.

[139] *See generally* Interior Secretary David Bernhardt's Autocratic Power Grab, PEER (Aug. 3, 2020), https://www.peer.org/david-bernhardts-autocratic-power-grab/

[140] *See* Mark Kaufman, *How Trump bent the National Park Service to do his bidding*, MASHABLE (Aug. 14, 2020), https://mashable.com/article/national-park-service-no-leader/?europe=true*; see also* Letter from The Coalition to Protect America's National Parks to Margaret Everson, Counselor to the Sec'y, Dep't of the Interior (Aug. 17, 2020), https://protectnps.org/2020/08/17/coalition-objects-to-using-parks-as-campaign-stops/ (Arguing that "it is inappropriate for the NPS to permit partisan political campaign events to be conducted in parks.").

[141] *See generally Interior Reorganization*, U.S. DEP'T OF THE INTERIOR, https://www.doi.gov/employees/reorg.

[142] Memorandum from David Bernhardt, Sec'y of the Interior to Assistant Secretaries (July 15, 2019), https://www.doi.gov/sites/doi.gov/files/migrated/secretarys_memo_implementation_and_standardization_of_the_unified_regions_2019-07-16.pdf.

[143] *See* Morgan Chalfant & Rachel Frazin, *Trump says national parks to start reopening as states lax coronavirus restritions*, THE HILL (April 22, 2020), https://thehill.com/policy/energy-environment/494107-trump-says-national-parks-to-start-reopening-as-states-relax.

[144] Press Release, N'tl Park Serv., Retirement Date for Superintendent of Yellowstone Dan Wenk (July 19, 2018), https://www.nps.gov/yell/learn/news/07092018.htm.

[145] For example, the superintendent of the Grand Canyon is a lawyer who has served at DOI for decades but does not have experience managing parks. This choice is not unanimously opposed by interested groups. *See* Kurt Repanshek, *Incoming Grand Canyon Superintendent Brings Deep Background to Challenging Job*, NATIONAL PARKS TRAVELER (Apr. 9, 2020), *https://www.nationalparkstraveler.org/2020/04/incoming-grand-canyon-superintendent-brings-deep-background-challenging-job.*

[146] *Public Employees for Envt'l. Responsibility v. Bernhardt*, No. 1:20-cv-01224 (D.D.C. May 11, 2020).

[147] 54 USC §100702.

[148] Director's Order No. 100, Resource Stewardship for the 21st Century §4 (Dec. 20, 2016) (Rescinded Aug. 16, 2017). https://www.nps.gov/policy/DOrders/DO_100.htm.

[149] NTI'L PARK SYSTEM ADVISORY BOARD SCIENCE COMM., REVISITING LEOPOLD: RESOURCE STEWARDSHIP IN THE NATIONAL PARKS (2012), https://www.nps.gov/calltoaction/pdf/leopoldreport_2012.pdf.

[150] Director's Order No. 100, Resource Stewardship for the 21st Century §4 (Dec. 20, 2016) (Rescinded Aug. 16, 2017), https://www.nps.gov/policy/DOrders/DO_100.htm.

[151] Director's Order No. 100, Resource Stewardship for the 21st Century, §4 (Dec. 20, 2016) (Rescinded Aug. 16, 2017), https://www.nps.gov/policy/DOrders/DO_100.htm.

[152] *See* Elizabeth Shogren, *These Emails Show Exactly How Science was Wiped Out at the Department of the Interior*, MOTHER JONES (July 30 2018), https://npca.s3.amazonaws.com/images/11407/7599ec61-f335-449e-9b3d-23ff67b0cf21-original.jpg?1504121992.

[153] *See* Timothy Cama, *Zinke reprimanded park head after climate tweets*, THE HILL (Dec. 15, 2017), https://thehill.com/policy/energy-environment/364994-zinke-reprimanded-park-head-after-climate-tweets

[154] UNION OF CONCERNED SCIENTISTS, SCIENCE UNDER TRUMP (2018), https://www.ucsusa.org/sites/default/files/images/2018/08/science-under-trump-report.pdf

[155] *See* Brad Plumer & Coral Davenport, *Science Under Attack: How Trump is Sidelining Researchers and their Work,* N.Y. TIMES (Dec. 28, 2019), https://www.nytimes.com/2019/12/28/climate/trump-administration-war-on-science.html.

[156] Director's Order 100 included a provision requiring that superintendents possess and demonstrate scientific literacy. Director's Order No. 100, Resource Stewardship for the 21st Century §9 (Dec. 20, 2016) (Rescinded Aug. 16, 2017) ("Ensuring Scientific Literacy for Superintendents").

[157] Great American Outdoors Act, 54 U.S.C. §§ 200401-03 (2020).

[158] 52 U.S.C. §§ 100801-04

[159] *See* Scott Streater, *Major parks 'rudderless' with outdated management plans – report*, GREENWIRE (June 30, 2016), https://www.eenews.net/greenwire/stories/1060039684/.

[160] Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 85 Fed. Reg. 43,304 (July 16, 2020) (To be codified at 40 C.F.R. §§1500-08; 1515-18); Secretarial Order No. 3355, Streamlining National Environmental Policy Act Reviews and Implementation of Executive Order 13807 (Aug. 31, 2017), https://www.doi.gov/sites/doi.gov/files/elips/documents/3355_-_streamlining_national_environmental_policy_reviews_and_implementation_of_executive_order_13807_establishing_discipline_and_accountability_in_the_environmental_review_and_permitting_process_for.pdf.

[161] Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 85 Fed. Reg. 43,304 (July 16, 2020) (To be codified at 40 C.F.R. §§1500-08; 1515-18).

[162] The Board was established in 1935 to provide advice to the secretary and is required to meet at least twice a year. *See Committee Detail: National park System Advisory Board – Agency Authority,* FACA DATABASE, https://www.facadatabase.gov/FACA/apex/FACAPublicCommittee?id=a10t0000001gzocAAA.

[163] *Advisory Board Meetings,* N'TL. PARK SERV., https://www.nps.gov/resources/advisoryboard150.htm.

[164] *See* Juliet Eilperin, *Nearly all members of the National Park Service advisory panel resign in frustration*, THE WASHINGTON POST (Jan. 17, 2018), https://www.washingtonpost.com/national/health-science/nearly-all-members-of-national-park-service-advisory-panel-resign-in-frustration/2018/01/16/b322ef5e-fae3-11e7-ad8c-ecbb62019393_story.html.

[165] Press Release, Dep't of the Interior, Secretary Zinke Selects Members of Newly Created "Made in America" Outdoor Recreation Advisory Committee (March 26, 2018), https://www.doi.gov/pressreleases/secretary-zinke-selects-members-newly-created-made-america-outdoor-recreation-advisory; Complaint at 19*, Public Employees for Envt'l. Responsibility v. N'tl. Park Serv.*, 1:19-cv-03629 (D.D.C. Dec 04, 2019).

[166] *See 'Made in America' Outdoor Recreation Advisory Committee,* N'tl. Park Serv., https://www.nps.gov/orgs/1892/made-in-america-rac.htm (last visited Sept. 18, 2020) (Noting that the committee was terminated on Nov. 1, 2019); Rob Hotakainen, *NPS axes industry-dominated advisory group amid legal fears,* E&E NEWS (Dec. 17, 2019), https://www.eenews.net/stories/1061836483.

[167] *See* Jeremy P. Jacobs & Rob Hotakainen, *Racist roots, lack of diversity haunt national parks*, E&E NEWS (June 25, 2020), https://www.eenews.net/stories/1063447583.

[168] *See* Matthew Daly, *National Park Service drops funding for Black Panther Party project*, PBS NEWSHOUR (Oct. 30, 2017), https://www.pbs.org/newshour/politics/national-park-service-drops-funding-for-black-panther-party-project.

[169] *See* Benjamin J. Hulac, *Interior watchdog to probe Park Police clash with demonstrators*, ROLL CALL (June 22, 2020), https://www.rollcall.com/2020/06/22/interior-watchdog-to-probe-park-police-clash-with-demonstrators/.

[170] Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 85 Fed. Reg. 43,304 (July 16, 2020) (To be codified at 40 C.F.R. §§1500-08; 1515-18).

[171] *See e.g.* Exec. Order 13,934, 85 Fed. Reg. 41,165 (July 3, 2020).

[172] Letter from Bill Yeargin, Chair, Outdoor Recreation Advisory Committee to the Hon Ryan Zinke, Sec'y of the Dep't of the Interior (Oct. 10, 2019), https://www.nps.gov/orgs/1892/upload/ORAC_recommendations_letter_to_DOI-Oct102019.pdfRecommendations attached to the letter).

[173] Commercial Visitor Services; Concession Contracts, 85 Fed. Reg. 43,775 (to be codified at 36 C.F.R. pt. 51) (Proposed on July 20, 2020).

[174] *see* Brett French, *National Park Service proposes changes to concession contracts*, THE BILLINGS GAZETTE (July 26, 2020), https://billingsgazette.com/lifestyles/recreation/national-park-service-proposes-changes-to-concession-contracts/article_ae143e01-4b6b-5a8d-a961-2047f076d2e7.html.

[175] N'TL PARK SERV., MANAGEMENT POLICIES §1.11 (2006), https://www.nps.gov/policy/MP_2006.pdf.

[176] *See* Jeanette Wolfley, *Reclaiming a Presence in Ancestral Lands: The Return of Native Peoples to the National Parks*, 56 NAT. RESOURCES J. 55, 78-80 (Winter 2016).

[177] Section 804 of the Alaska National Interest Lands Conservation Act (ANILCA) includes a priority for subsistence uses of fish and wildlife on federal public lands. 16 U.S.C. §3114 ("Except as otherwise provided in this Act and other Federal laws, the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over the taking on such lands of fish and wildlife for other purposes."). This affords Alaska Native communities subsistence hunting and fishing rights on public lands in Alaska that tribal nations in the lower 48 states generally lack.

[178] Secretarial Order No. 3317, Department of the Interior Policy on Consultation with Indian Tribes (2011), https://www.fws.gov/nativeamerican/pdf/secretarial- order-3317.pdf.

[179] *See* N'TL PARK SERV., MANAGEMENT POLICIES §8.5 (2006), https://www.nps.gov/policy/MP_2006.pdf. ("Superintendents will establish and maintain consulting relationships with potentially affected American Indian tribes or traditionally associated groups.").

[180] 25 U.S.C. §§ 458aa-hh(2006). The TGSA allows tribes to enter into contracts (called Annual Funding Agreements) with bureaus within the Department of Interior whereby the bureaus delegate limited management responsibility to the tribes.

[181] The National Congress of American Indians called on the Obama administration to study and find solutions for the lack of finalized funding agreements. *See* THE NATIONAL CONGRESS OF AMERICAN INDIANS, RESOL. #PHX-16-020 (2016), (http://www.ncai.org/attachments/Resolution_UUnNhTjnAYiVMTNNySVhAObuojWHvIZwyWoRoUyaRcZdkROg NID_PHX-16-020%20final.pdf.

[182] Caron Walker, *Tribe may gain control of the South Unit of Badlands*, THE HOUSTON CHRONICLE (Aug. 3, 2008), https://www.chron.com/news/nation-world/article/Tribe-may-gain-control-of-South-Unit-of-Badlands-1780930.php

[183] Director's Order No. 100, Resource Stewardship for the 21st Century §4 (Dec. 20, 2016)(Rescinded Aug. 16, 2017) ("Integrating Natural and Cultural Resource Stewardship").

[184] 16 U.S.C. §668dd(a)(2).

[185] This description is based on interviews. *See also*

[186] *See* MARK H. DESANTIS, CONG. RSCH. SERV., R45480, U.S. DEPARTMENT OF THE INTERIOR: AN OVERVIEW 14 (March 2019).

[187] NOAA Fisheries is responsible for marine and anadromous species. *Endangered Species Conservation,* NOAA FISHERIES, https://www.fisheries.noaa.gov/topic/endangered-species-conservation (last visited Sept. 18, 2020).

[188] *See* Press Release, Dep't of the Interior, U.S. Senate Confirms Aurelia Skipwith as Director of U.S. Fish and Wildlife Service, (Dec. 12, 2019), https://www.doi.gov/pressreleases/us-senate-confirms-aurelia-skipwith-director-us-fish-and-wildlife-service; Michael Doyle, *Skipwith Confirmed as Fish and Wildlife Service Director*, GREENWIRE (Dec. 12, 2019), https://www.eenews.net/greenwire/stories/1061793089.

[189] *See* Heather Richards, *Bernhardt's Alaska, ANWR drilling adviser*, E&E NEWS (Sept. 11, 2020), https://www.eenews.net/eenewspm/2020/09/11/stories/1063713527.

[190] *See* Adam Federman, *The Man Determined to Deliver Trump's Alaskan Oil Promise*, POLITICO (Aug. 8, 2020), https://www.politico.com/news/magazine/2020/08/08/trump-alaska-oil-wildlife-refuge-388548.

[191] See *id.* § 9, 16 U.S.C. § 1538.

[192] *See* Miranda Green, *Trump Administration Abruptly Ends Key Law Enforcement Program at Wildlife Refuges*, THE HILL (Oct. 2, 2018), https://thehill.com/policy/energy-environment/409455-trump-administration-ends-key-law-enforcement-program-at-wildlife.

[193] Press Release, Secretary Zinke Expands Hunting and Fishing Opportunities at 30 of America's National Wildlife Refuges, U.S. Fish & Wildlife Serv. (Sept. 7, 2018), https://www.fws.gov/news/ShowNews.cfm?ref=secretary-zinke-expands-hunting-and-fishing-opportunities-at-30-of-&_ID=36311.

[194] *See* Eric Katz, *Trump Administration Promises to Staff Up Police on Public Lands After Announcing Major Cuts*, GOV'T EXECUTIVE (Oct. 4, 2018), https://www.govexec.com/management/2018/10/trump-administration-promises-staff-police-public-lands-after-announcing-major-cuts/151817/.

[195] Section 7(a)(2) of the ESA requires all federal agencies to consult with the Secretary of the Interior (i.e., through FWS) prior to taking any agency action that may threaten or harm a protected species or designated critical habitat. 16 U.S.C. § 1536(a)(2).

[196] Ctr. for Science & Democracy, *Surveying the US Fish and Wildlife Service*, UNION OF CONCERNED SCIENTISTS 2 (Aug. 2018), https://www.ucsusa.org/sites/default/files/2019-09/science-under-trump-fws.pdf.

[197] Ctr. for Science & Democracy, *Surveying the US Fish and Wildlife Service*, UNION OF CONCERNED SCIENTISTS 2 (Aug. 2018), https://www.ucsusa.org/sites/default/files/2019-09/science-under-trump-fws.pdf.

[198] U.S. Fish and Wildlife Service Mitigation Policy, 83 Fed. Reg. 36,472 (July 30, 2018)(codified at 50 C.F.R. ch. I).

[199] Endangered and Threatened Wildlife and Plants; Regulations for Listing Species and Designating Critical Habitat, 84 Fed. Reg. 45,020 (Aug. 27, 2019) (to be codified at 50 C.F.R. pt. 424).

[200] *See* Kiona M. Smith, *Trump Administration Announces Changes to Endangered Species Act Rules*, ARS TECHNICA (Aug. 31, 2019, 11:12 AM) https://arstechnica.com/science/2019/08/whats-changing-about-endangered-species-act-enforcement-and-what-it-means/.

[201] Office of the Solicitor, M-37050, *The Migratory Bird Treaty Act Does Not Prohibit Incidental Take*, DEP'T OF THE INTERIOR (Dec. 22, 2017), https://www.doi.gov/sites/doi.gov/files/uploads/m-37050.pdf.

[202] Regulations Governing Take of Migratory Birds, 85 Fed. Reg. 5915 (Feb. 3, 2020) (to be codified at 50 C.F.R. pt. 10).

[203] U.*S. Fish and Wildlife Service Solicits Public Input on Proposed Rule and Environmental Impact Statement for Migratory Bird Treaty Act*, DEP'T OF THE INTERIOR (Jan. 30, 2020), https://www.fws.gov/news/ShowNews.cfm?_ID=36517.

[204] Lisa Friedman, *A Trump Policy 'Clarification' All but Ends Punishment for Bird Deaths*, N.Y. TIMES (Apr. 24, 2019), https://www.nytimes.com/2019/12/24/climate/trump-bird-deaths.html; *see also* Darryl Fears & Juliet Eilperin, *A Controversial Trump Legal Opinion Weakened a Law to Protect Birds. Now It Might Be Made Permanent,* WASH. POST (Jan. 30, 2020, 4:58 PM), https://www.washingtonpost.com/climate-environment/2020/01/30/controversial-trump-legal-opinion-weakened-law-protect-birds-now-they-want-make-it-permanent/; Laura Lundquist, *Trump Admin Orders Fish and Wildlife to Eliminate Fines for Killing Migratory Birds*, MISSOULA CURRENT (Jan. 31, 2020), https://missoulacurrent.com/outdoors/2020/01/fines-migratory-birds/.

[205] *See* Adam Aton, *Agency Targets Conservation Co-ops to Avoid Climate Rules*, CLIMATEWIRE (June 6, 2018), https://www.eenews.net/climatewire/stories/1060083623/.

[206] *See* Brittany Patterson, *Order Scrapping Climate Plans Could Hurt National Parks*, CLIMATEWIRE (Jan. 8, 2018), https://www.eenews.net/climatewire/stories/1060070325.

[207] *See* Adam Aton, *Department Draws GOP Heat for Cuts to Climate Program*, CLIMATEWIRE (Sept. 30, 2019), https://www.eenews.net/climatewire/stories/1061181953.

[208] Regulations for Designating Critical Habitat, 85 Fed. Reg. 47,333 (proposed Aug. 5, 2020) (to be codified at 50 C.F.R. pt. 424).

[209] Regulations for Designating Critical Habitat, 85 Fed. Reg. 55,398 (proposed Sept. 8, 2020)(to be codified at 50 C.F.R. pt. 17).

[210] *See* Pamela King & Michael Doyle, *Judge Restores Migratory Bird Protections*, GREENWIRE (Aug. 12, 2020), https://www.eenews.net/greenwire/stories/1063711523.

[211] *See* Jennifer Yachnin, *Military Seeks Authority over Refuge to Expand Test Range*, GREENWIRE (Nov. 4, 2019), https://www.eenews.net/greenwire/stories/1061461749.

[212] *See* Ctr. for Science & Democracy, UNION OF CONCERNED SCIENTISTS, *Surveying the US Fish and Wildlife Service*, UNION OF CONCERNED SCIENTISTS 3 (Aug. 2018), https://www.ucsusa.org/sites/default/files/2019-09/science-under-trump-fws.pdf.

[213] For a discussion on the legal framework for state and federal decision making for wildlife management on federal lands, *see* Martin Nie, et al., *Fish and Wildlife Management on Federal Lands: Debunking State Supremacy*, 47 Envt'l. L 797, 819-838 (2017).

[214] *See e.g.* Press Release, Dep't of the Interior, Visitor Spending at National Wildlife Refuges Boosts Local Economies by $3.2 Billion, Dep't of the Interior (June 27, 2019), *https://www.doi.gov/pressreleases/visitor-spending-national-wildlife-refuges-boosts-local-economies-32-billion.*

[215] 16 U.S.C. §668dd(a)(3)(A).

[216] *E.g.* 16 U.S.C. §668dd(a)(4)(K)("In administering the System, the Secretary shall […] provide increased opportunities for families to experience compatible wildlife-dependent recreation, particularly opportunities for parents and their children to safely engage in traditional outdoor activities, such as fishing and hunting….").

[217] 16 U.S.C. §668dd(e).

[218] *See* Press Release, Secretary Zinke Expands Hunting and Fishing Opportunities at 30 of America's National Wildlife Refuges, U.S. Fish & Wildlife Serv. (Sept. 7, 2018), https://www.fws.gov/news/ShowNews.cfm?ref=secretary-zinke-expands-hunting-and-fishing-opportunities-at-30-of-&_ID=36311; 2019-2020 Station-Specific Hunting and Sport Fishing Regulations, 84 Fed. Reg. 47,640 (Sept. 10, 2019)(to be codified at 50 C.F.R. §§ 26,32,36,71); 2020-2021 Station-Specific Hunting and Sport Fishing Regulations, 85 Fed. Reg. 54,076 (Aug. 31, 2020)(to be codified at 50 C.F.R. §§ 32,36,71).

[219] *See* Michael Doyle and Pamela King, *Zinke OKs Land Swap Allowing Road Through Alaska Refuge*, GREENWIRE (Jan. 22, 2018), https://www.eenews.net/greenwire/stories/1060071575.

[220] *Friends of Alaska Nat'l Wildlife Refuges v. Bernhardt*, 381 F. Supp. 3d 1127 (D. Alaska 2019).

[221] *See* Scott Streater, *Bernhardt Secretly Signs Land Swap for Alaska Refuge Road*, E&E NEWS PM (July 24, 2019), https://www.eenews.net/eenewspm/stories/1060783877.

[222] *See* Scott Streater, *DOJ Drops Izembek Appeal*, E&E NEWS PM (July 22, 2019), https://www.eenews.net/eenewspm/stories/1060774913.

[223] *See* DEP'T OF JUSTICE, GUIDANCE FOR APPLYING DELIBERATIVE PROCESS PRIVILEGE IN PROCESSING ECOLOGICAL SERVICES FOIA REQUESTS: COORDINATION WITH THE OCTOBER 20, 2017, DOJ MEMORANDUM ON ADMINISTRATIVE RECORDS (Sept. 6, 2018), https://www.biologicaldiversity.org/news/press_releases/2018/FOIA-and-Skinny-AR-Guidance.pdf.

[224] *See* Southern Envt'l. Law Center, Comment on the Department of the Interior's Proposed Freedom of Information Act Regulations, 83 Fed. Reg. 67,175, 9 (Dec. 28, 2018) (to be codified at 43 C.F.R. pt. 2).

[225] Freedom of Information Act Regulations, 84 Fed. Reg. 61,820 (Nov. 14, 2019) (codified at 43 C.F.R. pt. 2).

[226] Secretarial Order No. 3378, Improving the Department of the Interior Freedom of Information Act Program (Jan. 7, 2020), https://www.doi.gov/sites/doi.gov/files/elips/documents/so-3378-signed-508_0.pdf.

[227] *Nat'l Archives & Records Admin. v. Favish*, 541 U.S. 157, 172-73 (2004) (internal citation omitted).

[228] *See Friends of Alaska Nat'l Wildlife Refuges v. Bernhardt*, No. 3:19-CV-00216 JWS, 2020 WL 2892221 (D. Alaska June 1, 2020).

[229] *See* Scott Streater, *Bernhardt Tries to Revive Alaska Refuge Land Swap*, GREENWIRE (Aug. 17, 2020), https://www.eenews.net/greenwire/stories/1063711847.

[230] Native American Policy for the U.S. Fish and Wildlife Service, 81 Fed. Reg. 4638 (Jan. 27, 2016).

[231] Native American Policy for the U.S. Fish and Wildlife Service, 81 Fed. Reg. 4638 (Jan. 27, 2016).

[232] The first agreement was signed in 2004 – a decade after the passage of the act. *See Alaska tribes sign agreement for refuge system*, Indianz.com (May 3, 2004), https://www.indianz.com/News/archive/002031.asp. For more information, *see* Brian Upton, *Returning to a Tribal Self-Governance Partnership at The National Bison Range Complex: Historical, Legal, and Global Perspectives*, 35 PUB. LAND & RESOURCES L. REV. 51 (2014). FWS has entered into agreements with tribal nations for endangered species protection. *See* Brett Kenney, Tribes as Managers of Federal Lands, 27-SUM. NAT. RESOURCES & ENV'T 47, 49-50 (2012).

[233] *See* Secretarial Order No. 3342, Identifying Opportunities for Cooperative and Collaborative Partnerships with Federally Recognized Indian Tribes in the Management of Federal Lands and Resources (Oct. 21, 2016), https://www.doi.gov/sites/doi.gov/files/uploads/so3342_partnerships.pdf.

[234] *See* Kim Briggeman, *Proposal Gives Most National Bison Range Management to CSKT*, MISSOULIAN (Aug. 6, 2014), https://missoulian.com/news/local/proposal-gives-most-national-bison-range-management-to-cskt/article_6c3ebe06-1ced-11e4-8def-0019bb2963f4.html.

[235] *National Bison Range: Operating Hours*, FWS, https://www.fws.gov/refuge/national_bison_range/plan_your_visit/operating_hours.html (updated Aug. 12, 2020).

[236] *See* Corbin Hiar, *In About-face, Zinke Opposes Giving Bison Range to Tribes*, Greenwire (Apr. 13, 2017), https://www.eenews.net/greenwire/stories/1060053061.

[237] *See, e.g.,* Ellen M. Gilmer, *Court Must Protect Yellowstone Grizzlies — Advocates*, GREENWIRE (Aug. 6, 2019), https://www.eenews.net/greenwire/stories/1060866645; Scott Sonner, *Navy Review Backs Planned Expansion of Nevada Bombing Range*, ASSOCIATED PRESS (Jan. 16, 2020), https://apnews.com/ce5ec3c98b886587c9e0556d9f3168a8.

[238] *See* Alex Sakariassen, *The problem of precedent: National Bison Range transfer sparks opposition and concern*, MONT. FREE PRESS (Feb. 23, 2020), https://www.bozemandailychronicle.com/news/the-problem-of-precedent-national-bison-range-transfer-sparks-opposition-and-concern/article_db58dead-1893-52c2-b798-9723ec7e8878.html.